

# **PRESIDENTIAL CAMPAIGN ACTIVITIES OF 1972**

**SENATE RESOLUTION 60**

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**HEARINGS**  
BEFORE THE  
**SELECT COMMITTEE ON**  
**PRESIDENTIAL CAMPAIGN ACTIVITIES**  
OF THE  
**UNITED STATES SENATE**  
NINETY-THIRD CONGRESS  
FIRST SESSION

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**WATERGATE AND RELATED ACTIVITIES**

**Phase I: Watergate Investigation**

WASHINGTON, D.C., JULY 18, 19, 20, 23, 24, AND 25, 1973

**Book 6**



Printed for the use of the  
Select Committee on Presidential Campaign Activities

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# **PRESIDENTIAL CAMPAIGN ACTIVITIES OF 1972**

## **PHASE I: WATERGATE INVESTIGATION**

**WEDNESDAY, JULY 18, 1973**

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**U.S. SENATE,  
SELECT COMMITTEE ON  
PRESIDENTIAL CAMPAIGN ACTIVITIES,  
Washington, D.C.**

The Select Committee met, pursuant to recess, at 10:05 a.m., in room 318, Russell Senate Office Building, Senator Sam J. Ervin, Jr. (chairman), presiding.

Present: Senators Ervin, Talmadge, Inouye, Montoya, Baker, Gurney, and Weicker.

Also present: Samuel Dash, chief counsel and staff director; Fred D. Thompson, minority counsel; Rufus L. Edmisten, deputy chief counsel; Arthur S. Miller, chief consultant; Jed Johnson, consultant; David M. Dorsen, James Hamilton, and Terry F. Lenzner, assistant chief counsels; R. Phillip Haire, Marc Lackritz, William T. Mayton, Ronald D. Rotunda, and Barry Schochet, assistant majority counsels; Eugene Boyce, hearings record counsel; Donald G. Sanders, deputy minority counsel; Howard S. Liebengood, H. William Shure, and Robert Silverstein, assistant minority counsels; Pauline O. Dement, research assistant; Eiler Ravnholt, office of Senator Inouye; Robert Baca, office of Senator Montoya; Ron McMahan, assistant to Senator Baker; A. Searle Field, assistant to Senator Weicker; Ray St. Armand, assistant publications clerk.

Senator ERVIN. The committee will come to order. Counsel will call the first witness.

Mr. DASH. Mr. Tony Ulasewicz.

Senator ERVIN. You were sworn in and you took the oath of a witness when you were here before the committee earlier, and this same oath still covers your testimony.

### **TESTIMONY OF ANTHONY T. ULASEWICZ, ACCOMPANIED BY JOHN JOSEPH SUTTER, COUNSEL**

Mr. ULASEWICZ. Yes, sir.

Mr. DASH. Mr. Chairman, Mr. Terry Lenzner, assistant chief counsel, will question the witness.

Mr. LENZNER. Mr. Ulasewicz, I see you have counsel today. Would he identify himself.

Mr. SUTTER. John Joseph Sutter, Mineola, N.Y.

Mr. LENZNER. I understand you have a prestatement you would like to make, Mr. Sutter.

Mr. SUTTER. I do. Mr. Chairman, I am sure much to the relief of the committee Mr. Ulasewicz does not have a prepared statement he desires to read. He is here merely for the purposes of answering questions from the committee and I should like the record to indicate that he appears pursuant to a subpoena issued by the committee dated April 30, 1973, and served upon him on or about May 8, 1973. Thank you, sir.

Mr. LENZNER. Thank you, Mr. Sutter.

Mr. Ulasewicz, you testified here about your relationships with Mr. Caulfield in making contact with Mr. McCord. I just want to go back and ask you, were you contacted originally by Mr. Caulfield in February of 1969 with reference to doing some investigative work?

Mr. ULASEWICZ. Yes, I was.

Mr. LENZNER. I understand the committee is not going to inquire into that area in any detail at all today but I do want to ask just two other background questions: First, were you also interviewed by Mr. John Ehrlichman in May of 1969 at the VIP lounge at LaGuardia Airport?

Mr. ULASEWICZ. That is correct.

Mr. LENZNER. And in June of 1969 did you meet Mr. Herbert Kalmbach here in the District of Columbia?

Mr. ULASEWICZ. That is correct.

Mr. LENZNER. Now, on or about June 28, 1972, did you receive a call from that same Mr. Kalmbach?

Mr. ULASEWICZ. Yes, I believe it was on the 29th of June.

Mr. LENZNER. And could you tell us what he said to you and what you said to him?

Mr. ULASEWICZ. Mr. Kalmbach asked me to come down to Washington the next afternoon, that he wanted to speak to me regarding an assignment.

Mr. LENZNER. And did you agree to do that?

Mr. ULASEWICZ. Yes, I did.

Mr. LENZNER. Did you see him the next day?

Mr. ULASEWICZ. I did.

Mr. LENZNER. Where was that, sir?

Mr. ULASEWICZ. It was in the Statler-Hilton Hotel in his room.

Mr. LENZNER. Can you tell us what he said to you at that time and what you said to him?

Mr. ULASEWICZ. Mr. Kalmbach advised me that he had a very important assignment, and he went at least three times over the statement, saying that it was a situation that developed that he was asked to do something and needed my help in doing it. He said that it was legal, that it was to provide funds for persons in difficulty for payment of their counsels, and for payment to assist their families during some troublesome period. He repeated the statement several times. He was very ill at ease, very nervous and we got to the point where I said, "Well, Mr. Kalmbach just what is this now" and he says, "I have guessed it, it's the Watergate situation."

Mr. LENZNER. Mr. Ulasewicz, let me just interrupt—would you put the microphone more directly in front of you please, thank you.

Mr. ULASEWICZ. And he said, "It's the Watergate situation, I guess you have guessed that," and I said "Yes, sir." and he said "Well, again, let me assure you I would not in any way or fashion ask anyone to do anything that I would not engage my own services in. It is an assignment for me and I am asking you to do this. It will necessitate confi-

dential methods possibly." He could not go into at that time as to what it might completely take in.

At a certain point in the conversation, he mentioned that there may be a necessity of communicating by telephone with me from time to time, and what might be the best procedures. I said if you mean as far as best procedures of eavesdropping or any of that type that the telephone booth method is the only one, and I started to explain however, "Wherever you want me to call you, you should give me the number in advance, you should check it out, know where I am calling and then I know it in return." And I went right over his head actually because it didn't quite work out that way but we went into the phone booth deal and we agreed to it. After that—

Mr. LENZNER. Would you explain what the phone booth deal was, Mr. Ulasewicz?

Mr. ULASEWICZ. Well, if we wanted to be absolutely certain of receiving a call at a cleared phone booth or so he should have, the way it would be he would go into an area where he wanted me to call from a phone booth, establish that it was actually a phone booth but we did make an arrangement later where we did furnish with numbers.

Mr. LENZNER. A phone booth?

Mr. ULASEWICZ. A phone booth.

Mr. LENZNER. Did you also talk about names that you and he could contact each other?

Mr. ULASEWICZ. Yes. Mr. Kalmbach agreed to use—suggested whenever he might call me in relation to this matter—he would use the name Novak and that would be just strictly for myself. In the course of that, he said that if another name would probably be necessary it would be Rivers.

Mr. LENZNER. Who was supposed to use that name?

Mr. ULASEWICZ. He anticipated that I might use that name in contact with distributing this money to the people that it would be necessary. At a point in the conversation he said that he had the money with him, and it was \$75,100 which he gave me. It was in \$100 bills.

Mr. LENZNER. What did you put it in?

Mr. ULASEWICZ. I went to the closet of the room and took a laundry bag and put the money in a laundry bag.

Mr. LENZNER. Now going back to the code names, do I understand it correctly, Mr. Ulasewicz, when he called you he would call your home and say, "This is Mr. Novak calling."

Mr. ULASEWICZ. Correct.

Mr. LENZNER. And would he leave a number for you to call back?

Mr. ULASEWICZ. It developed to that, yes.

Mr. LENZNER. What would you do after that?

Mr. ULASEWICZ. What happened when he called Mr. Novak, where he would say it is Novak after our initial call, which I supplied him with telephone, public telephone numbers, I would go to the telephone booth, and we had—and he would give me a time usually about a half hour, allowing me time to get to the phone booth and then he would call me at the booth.

Mr. LENZNER. Did you go back to New York with the \$75,100?

Mr. ULASEWICZ. Yes, I did.

Mr. LENZNER. Did you thereafter receive money again from Mr. Kalmbach?

Mr. ULASEWICZ. Yes, I did.

Mr. LENZNER. I would like to get your receipts all at once here if I can. Where was the next place that you received money from Mr. Kalmbach?

Mr. ULASEWICZ. At the Regency Hotel in New York City.

Mr. LENZNER. Approximately how much?

Mr. ULASEWICZ. \$40,000.

Mr. LENZNER. And approximately when was that?

Mr. ULASEWICZ. That would have been in July.

Mr. LENZNER. Of 1972?

Mr. ULASEWICZ. 1972.

Mr. LENZNER. Where was the next delivery?

Mr. ULASEWICZ. At the Hilton here in Washington, \$28,900.

Mr. LENZNER. Again approximately when was that?

Mr. ULASEWICZ. In July.

Mr. LENZNER. And——

Mr. ULASEWICZ. And then my recollection is the final amount was \$75,000 at the Airporter Inn in Los Angeles opposite the Orange County Airport.

Mr. LENZNER. All right.

Now, going back to the original \$75,100 what denominations was that in did you say?

Mr. ULASEWICZ. Hundred dollar bills.

Mr. LENZNER. Where did you keep that cash?

Mr. ULASEWICZ. I kept it at home.

Mr. LENZNER. Did there come a time when you received these other amounts that you left them somewhere else?

Mr. ULASEWICZ. Yes.

Mr. LENZNER. Where was that?

Mr. ULASEWICZ. In a safe deposit box.

Mr. LENZNER. Now, after you got back to New York, did you hear from Mr. Kalmbach again?

Mr. ULASEWICZ. I did.

Mr. LENZNER. And what instructions, if any, did he give you?

Mr. ULASEWICZ. He mentioned—he told me to call a Mr. Caddy.

Mr. LENZNER. Mr. Caddy?

Mr. ULASEWICZ. Right, Mr. Caddy, to come back to Washington, D.C., and call Mr. Caddy.

Mr. LENZNER. Approximately——

Mr. ULASEWICZ. He supplied me with a telephone number.

Mr. LENZNER. How soon after you left Washington did he tell you that?

Mr. ULASEWICZ. It probably was the same evening or the next morning.

Mr. LENZNER. What did you do? Did you go down to Washington and call Mr. Caddy?

Mr. ULASEWICZ. I did.

Mr. LENZNER. Will you tell us the conversation you had with him.

Mr. ULASEWICZ. I contacted Mr. Caddy and he suggested that he would—prior to this is when Mr. Kalmbach said, "Tell him that." And it was of the code names we had gotten into other names, Tom Kane, and John Ferguson and Tommy Smith so there was a little confusion once in a while on that. However, at this——

Mr. LENZNER. Who gave you those names?

Mr. ULASEWICZ. Mr. Kalmbach and myself in conversation, as kind of backup.

However, with—in this case he instructed me to use, I believe it was John Rivers when I called Mr. Caddy and on this occasion I was to say the purpose of my call to Mr. Caddy was that I was asking the cost of a script, of a play plus the salaries of the players, which I did. I contacted Mr. Caddy, and he was—and he responded and said he would meet me in a restaurant sometime in the afternoon here in Washington, D.C.

Mr. LENZNER. Just to clarify it, you identified yourself to Mr. Caddy as Mr. Rivers, is that correct?

Mr. ULASEWICZ. I believe Mr. Rivers, yes. In most of these transactions it was Rivers.

Mr. LENZNER. Was there any reason for the code name Rivers for you to use?

Mr. ULASEWICZ. No.

Mr. LENZNER. Now, did you go to that restaurant in Georgetown?

Mr. ULASEWICZ. Yes, I did.

Mr. LENZNER. What happened there?

Mr. ULASEWICZ. I waited for Mr. Caddy's arrival. However, a phone call came in, I was paged by the bartender, Mr. Caddy got on the phone and said that he couldn't meet me, after speaking to somebody in his office in the attorney's office that he could not meet me, would I be able to come and see him. I told him I would get in touch with him. My instructions originally with Mr. Kalmbach was that I enter no negotiations at any time that he would not enter negotiations. This is refreshing my memory again and the other thing he said was that I am to do, if I received amounts or so, I am not to deliver anything until I get in touch with Mr. Kalmbach, and throughout these—continually throughout these negotiations and drops and whatever may come up, this was the pattern, that I would make the contact as directed, but I would take no action until I reported whatever was said or done to Mr. Kalmbach and even I would await a return call from Mr. Kalmbach, as to whether to proceed or not. In this case I reported Mr. Caddy's message and Mr. Kalmbach said, "Well," probably, "give me the number you are at—that is at a phone booth here in Washington. I will get back to you."

Mr. LENZNER. Did he call you back?

Mr. ULASEWICZ. My recollection is he did. He called me back and I think in this instance it was, "Call Mr. Caddy again." And this might have been an hour or so later. I called Mr. Caddy again and we got nowhere as far as any costs, I am now picturing that I am going to deliver the \$75,100 which I have under my arm and he is not going along with it, and so—

Mr. LENZNER. You had the money with you on that date?

Mr. ULASEWICZ. Oh, yes.

Mr. LENZNER. How did you carry it on that date?

Mr. ULASEWICZ. I carried it in a brown bag with, you know, the ordinary type of—with a little string around it. You know, sometimes carrying what is most obvious doesn't raise any suspicion, carrying an armed box would ask for trouble.

Mr. LENZNER. You were just carrying your lunch?

Mr. ULASEWICZ. Carrying my lunch.

Mr. LENZNER. All right.

Mr. ULASEWICZ. Nevertheless, I got to, back to Mr. Kalmbach. This was a series of calls. Then somewhere in there, Mr. Caddy suggested that I should come up to the office, that they would have, where there was a corridor, a separate office, and we would not be observed, et cetera. So then, that I had to report back to Mr. Kalmbach.

I think these calls might have been going Californiawide by now, I am not too certain. Then he would attempt to get back to me. However, there was a delay. Apparently, he could not reach whomever he was attempting to reach, the communications were not there for some reason or other.

Then I probably went back to the city—the final result being that that was it with Mr. Caddy. We never did meet.

Mr. LENZNER. At some point, did Mr. Kalmbach tell you to drop the whole Caddy business?

Mr. ULASEWICZ. Yes.

Mr. LENZNER. I take it you were having these conversations phone booth to phone booth between yourself and Mr. Kalmbach?

Mr. ULASEWICZ. That is correct.

Mr. LENZNER. Were you loaded down with change, Mr. Ulasewicz?

Mr. ULASEWICZ. Oh, yes, indeed.

Mr. LENZNER. How did you carry that change?

Mr. ULASEWICZ. When I started out, I started with a kind of little box deal. When I finished up, I had a bus guy's, one of these things that the bus drivers have. [Laughter.]

Mr. LENZNER. After you got back to New York, did you again receive instructions from Mr. Kalmbach?

Mr. ULASEWICZ. Yes. Just about the time it ended with Caddy, which we got nowhere, and I still had the \$75,100, I was asked to call Mr. O'Brien, using the name of John Rivers.

Mr. LENZNER. Did you call him?

Mr. ULASEWICZ. I called Mr. O'Brien, received a very tart kind of brushoff response, and that was the end of that conversation. It was one phone call. He showed no interest in any script, players, or any type of message that I would give.

Mr. LENZNER. You were given the same instructions by Mr. Kalmbach to talk about a script, a scenario, the players?

Mr. ULASEWICZ. Yes.

Mr. LENZNER. Did you call Mr. Kalmbach again, telephone booth to telephone booth?

Mr. ULASEWICZ. I did.

Mr. LENZNER. And tell him——

Mr. ULASEWICZ. I told him exactly as I have related here.

Mr. LENZNER. Did he come back again with other instructions?

Mr. ULASEWICZ. He came back, gave me another person to call—it was not a person—he gave me a telephone number this time, no name involved. To the best of my recollection, when I called and it was answered, the fellow would be expecting a call, give the name of Mr. John Rivers or whatever name—it would have to be Rivers, I imagine.

Mr. LENZNER. Where was the number?

Mr. ULASEWICZ. Washington, D.C., area. And I may have called from the city of New York at that time, because running around with \$75,100, trying to get rid of it was becoming a problem.

So I called the number and he said to me, you can talk to the writer's wife. And I said to him, well, as far as the writer's wife, I do not have a phone number. He said, why don't you do what I have to do, look in the phone book? So that was the end of that conversation, because that was apparently another one we were not going to get anywhere with.

Mr. LENZNER. Did you report that back to Mr. Kalmbach?

Mr. ULASEWICZ. I called Mr. Kalmbach again. All of these were precluded. I had to call and wait for a comeback. I began to call them Kalmbach comeback calls. [Laughter.]

So that was that.

Mr. LENZNER. Did you get further instructions from Mr. Kalmbach?

Mr. ULASEWICZ. Yes. I then was instructed to call Mr. Bittman in Washington, who I understood was an attorney.

Mr. LENZNER. What instructions did you have to talk to him?

Mr. ULASEWICZ. The same thing, the cost of the script, the writer, get what the attorney fees—not the attorney fees at this point. The cost of the script, the players, et cetera.

Mr. LENZNER. You were using the same name, Mr. Rivers?

Mr. ULASEWICZ. I believe so, yes.

Mr. LENZNER. Did you call Mr. Bittman?

Mr. ULASEWICZ. I did.

Mr. LENZNER. Did you speak to him?

Mr. ULASEWICZ. I spoke to Mr. Bittman and I recall that in the first conversation, Mr. Bittman said, "Well, I understand." He was expecting a call. He said, "Well, this is very unusual." He said something like, I do not know if you are an attorney, but an attorney does not anticipate fees and costs in this manner.

I said, "Well, I am instructed not to negotiate in any manner. I understood that you would have a figure" and I told him that I am prepared at this time if we can get down to this, because at this point, I still wanted to get rid of all those cookies, \$75,100.

And he brought in the situation that—he was not prepared at that time, something was not according to the way he liked. I so reported to Mr. Kalmbach, received my call back from Mr. Kalmbach. He told me again to call and contact Mr. Bittman.

Now, this is some period of time passes by. Mr. Bittman said, all right, his initial fee would be \$25,000.

Mr. LENZNER. What period of time, Mr. Ulasewicz, are we talking about?

Mr. ULASEWICZ. This would be around July 8 to the 10th, in that period of time.

Mr. LENZNER. You are talking now about your discussions with Mr. Bittman?

Mr. ULASEWICZ. With Mr. Bittman, correct.

Mr. LENZNER. And did you call Mr. Kalmbach and tell him Mr. Bittman had indicated he wanted an initial fee of \$25,000?

Mr. ULASEWICZ. I did.

Mr. LENZNER. What was Mr. Kalmbach's response?

Mr. ULASEWICZ. He said to deliver it to Mr. Bittman in any manner I saw fit.

Mr. LENZNER. Did he give you any instructions about not being seen by Mr. Bittman?

Mr. ULASEWICZ. Oh, yes; those came in after the Caddy call, that somehow conversations were arranged that I would not now be seen by anybody, to do the money without being observed, in a confidential manner.

Mr. LENZNER. That was Mr. Kalmbach's instructions to you?

Mr. ULASEWICZ. Right.

Mr. LENZNER. Now, you expressed some concern about carrying this amount of money around with you. How were you traveling during this period of time?

Mr. ULASEWICZ. By airplane, Eastern Airlines shuttle, usually.

Mr. LENZNER. Did you ever change your mode of travel? Did you have a problem on the plane?

Mr. ULASEWICZ. Well, there was a period of time, of course, with the hijacks and all—they started a searching system on the airlines and that was a little problem. I got in line one time to come back—when I had the problem, it would be only \$50,000 at this time. A fellow in front of me, two or three persons in front of me stopped and had to produce—I think four packs of cigarettes or something, set off the alarm. So I went into a coughing fit and I went down to the Pennsylvania Railroad and took the train home.

Mr. LENZNER. Well, now, you arranged, as I understand it, Mr. Ulasewicz, to furnish Mr. Bittman with \$25,000 for the script. Was that the end of the conversation?

Mr. ULASEWICZ. That is correct.

Mr. LENZNER. And how did you arrange to deliver that money?

Mr. ULASEWICZ. I contacted Mr. Bittman right from the lobby of his office there. I spoke with him and I told him that I had the cash. Prior to that, I went out to a drugstore in the area, bought a couple of envelopes and some scotch tape, and I had to count out \$25 from that \$75,100—\$25,000 from the \$75,100 original, which I did, and I put it into a plain kraft brown envelope.

I called Mr. Bittman from the lobby of his building. There are two or three phone booths. On one side of the phone booth was a ledge with the phone books and I called Mr. Bittman.

Mr. LENZNER. Mr. Ulasewicz, if I may interrupt you, could you now approach the easel and tell me if you can identify this first photograph?

Now, you started to describe, Mr. Ulasewicz, where you left us, is that the lobby of the building?

Mr. ULASEWICZ. Yes [78]\*, this is the lobby, these are the phone booths, these are elevators going to either side, and that is Ulasewicz right there.

Mr. LENZNER. Very good. Would you now indicate on the photograph where you called from and what happened after that?

Mr. ULASEWICZ. I called from this telephone booth [indicating] to Mr. Bittman and told him that I had the delivery and that would he

\*Figures in brackets indicate exhibit numbers being referred to. Exhibits appear on pp. 2228-2230.



come right down and that it would be on the ledge at the telephone booth.

Now, this gentleman is standing where the ledge is. There are two or three or four telephone books and there is a ledge above, a kind of space. I told him it would be a brown sack and that the money would be lying right there, would he come right down, if he walk right through and pick it up and go back to the elevator, I would be satisfied.

Mr. LENZNER. Now, thereafter, did an individual come down on the elevator?

Mr. ULASEWICZ. We had a description of clothing as I phoned, as I recall, that he would be wearing a brown suit or something at that time.

Mr. LENZNER. Did somebody come down wearing those clothes?

Mr. ULASEWICZ. Yes.

Mr. LENZNER. Where were you at that time?

Mr. ULASEWICZ. I was in a telephone booth. I had it half shut. There was another person in a booth. These booths on weekdays are very heavily used. There is a newsstand section in front. There is quite a bit of traffic on a weekday. This was taken on a Saturday afternoon.

He came right out of this elevator, the first elevator, and walked right over, picked it up, walked right back in, and went up.

Mr. LENZNER. Now, Mr. Ulasewicz, rather than having you go back and forth several times between the table and the easel, I would like to go ahead and continue, if it is OK, and have you describe other contacts that you made with individuals you furnished with money.

Did there come a time later when Mr. Kalmbach instructed you to furnish funds to Mrs. Hunt?

Mr. ULASEWICZ. Yes, that is correct.

Mr. LENZNER. Did you have a conversation with Mrs. Hunt where you arranged to furnish her with some funds?

Mr. ULASEWICZ. Yes, I did.

Mr. LENZNER. Would you just describe what you told her, as to how she could pick up her money?

Mr. ULASEWICZ. I told Mrs. Hunt that at a certain time in a day, and I picked an hour, to come into the lounge of the American Airlines, which is a long lounge area, leading right through the building. There are ticket desks on one side, seats in the center and it is a very busy area. And at the center of that, she should check with the time on a large clock, so it would be almost exactly at that time. It would be 12 noon and if she saw 5 to 12, to go back out and come back at that time.

She followed instructions explicitly.

In the meantime, whatever drop I would have at the time, I would put in this particular locker and take the key. [79]\* And just before, when I pulled up with the instructions, now, 5 minutes before I knew she was coming, there was opposite, and about 25 feet away, across from Northwest Orient Airlines, there is a series of telephone booths, five or six booths [81]\*, and there is a newsstand across and there is a bit of traffic.

Before making the arrangements, I spent some time observing the telephone booths and of all the booths, watching people going in and out, the most I saw in one for some reason, people didn't use the very end one. So that is the reason I used that and left the key.

So 5 minutes prior to the time I would tell her to come, I would go into this telephone booth and underneath where the coin drop is, I

\*Figures in brackets indicate exhibit numbers being referred to. Exhibits appear on pp. 2228-2230.

would scotch tape the key to the locker where I made my drop. [80]\*

Then I would leave that area and either go by the newsstand opposite or—this would be where the phone booth would be. This is a lounge, where she would be coming through in this direction. [81]\* This is a window for airplane observation by the public, et cetera, and I would probably be in this area, walk there, would be a little further behind, where I could watch the booth. Her directions were the same thing, don't hesitate, go right into the booth, remove the key, go to the locker. The locker would be 25 feet, I guess, or so across the corridor.

Mr. LENZNER. Now, before she arrived on the first occasion, did you also have a description of her, the clothes she was going to wear?

Mr. ULASEWICZ. Yes; she mentioned that day she would be wearing a blue outfit and I think she said her hair in a clip back off the shoulders.

Mr. LENZNER. Now, I believe on May 19 of this year, when we went out to that phone booth with you, there was some scotch tape underneath that telephone box?

Mr. ULASEWICZ. That is correct.

Mr. LENZNER. Now, did you observe her on the first occasion come by, pick up the key, and go over to the box, which I think is N-301, and remove funds that you had left there?

Mr. ULASEWICZ. That is correct.

Mr. LENZNER. Did you see her do that on other occasions?

Mr. ULASEWICZ. On two other occasions.

Mr. LENZNER. Now, the first occasion, how much money did you leave in that box?

Mr. ULASEWICZ. \$40,000.

Mr. LENZNER. The second occasion?

Mr. ULASEWICZ. I will just refer to the notes.

Mr. LENZNER. Sure.

Mr. ULASEWICZ. I mentioned there was one occasion that Mr. Hunt came. I mentioned actually there were four drops to the Hunts.

Mr. LENZNER. Four drops to the Hunts—three to Mrs. Hunt and one to Mr. Hunt?

Mr. ULASEWICZ. That is correct. There were \$43,000 the second time, \$18,000 the third, and \$53,500 on the last occasion, which was September 19.

Mr. LENZNER. All right, sir. Now, I take it you had the telephone booth under observation from the lounge after you left the key until at some point when Mrs. Hunt picked up the key?

Mr. ULASEWICZ. Correct.

Mr. LENZNER. What if someone had come in and found that, Mr. Ulasewicz, while you were watching?

Mr. ULASEWICZ. Well, he would be very quickly relieved of that key. I think that is the best I can answer. Why put myself in that position?

Mr. LENZNER. I take it that was the purpose of keeping the booth under observation?

Mr. ULASEWICZ. Correct.

Mr. LENZNER. Did there come a time when you were instructed by Mr. Kalmbach to deliver funds to Mr. Liddy?

Mr. ULASEWICZ. Correct.

Mr. LENZNER. Do you remember approximately when that was?

\*Figures in brackets indicate exhibit numbers being referred to. Exhibits appear on pp. 2228-2230.

Mr. ULASEWICZ. That was in July of 1972.

Mr. LENZNER. Did you contact Mr. Liddy and give him instructions as to how that money would be delivered?

Mr. ULASEWICZ. I did.

Mr. LENZNER. How much was that, by the way?

Mr. ULASEWICZ. \$8,000.

Mr. LENZNER. All right, sir. Now, will you explain what you told Mr. Liddy?

Mr. ULASEWICZ. I contacted Mr. Liddy. I had taken the phone number from Mrs. Hunt. She had made those arrangements, saying they needed money, and Kalmbach came back to me, delivered the money, \$78,000. In that conversation, he started, and it was the only one I had with him, he started on that occasion, started saying something about—again he thought I was in policymaking or some contact—and he said, "You can check with anyone and the stand-up guy," et cetera. I said, "Mr. Liddy, I am only delivering something in the package." He said "OK".

We made arrangements and in this instance, I placed the money in the locker at this end of the lobby and at the end of the lobby, the main area, where Eastern Airlines comes in here. [85]\* I placed the money in the bottom locker. [82]\* I placed the key in an envelope and placed it on a ledge here by the window [83]\* and myself in a position back to observe, much in this fashion.

Mr. LENZNER. What is next to the travel—

Mr. ULASEWICZ. Next to the Mutual?

Mr. LENZNER. Insurance.

Mr. ULASEWICZ. Insurance situation here.

Mr. LENZNER. All right.

Mr. ULASEWICZ. Then he came in and did as instructed, told him he would be wearing a shirt of some description. He came in, walked by me and he proceeded up—there is a flight of stairs which lead to an upper deck, and I watched him from up here [84]\*, and I lost sight of him, he had gone into a corridor leading in here and he probably thought that there were lockers in this area, and he went, however, he came back in maybe 30 seconds or so, and looking at his key opened the thing and took the money.

Mr. LENZNER. Now did there come a time when you were asked to deliver money to Mr. Fred LaRue by Mr. Kalmbach?

Mr. ULASEWICZ. Yes.

Mr. LENZNER. Was that in September of 1972?

Mr. ULASEWICZ. That is correct.

Mr. LENZNER. And approximately how much was that?

Mr. ULASEWICZ. \$29,900.

Mr. LENZNER. What arrangements did you make with Mr. LaRue to deliver those funds?

Mr. ULASEWICZ. The instructions at that time from Mr. Kalmbach were there were two deliveries that day, one earlier to Mrs. Hunt in a manner as I described, and the second one to Mr. LaRue—shall I go into the entire conversation at this point?

Mr. LENZNER. Sure, go ahead.

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Mr. ULASEWICZ. Mr. LaRue, Mr. Kalmbach said, gave me a telephone number and said, "Contact Mr. LaRue at 6 p.m. and Mr. LaRue lives in the Watergate apartments," which, of course, was a little surprise to me, and now we are back into the Watergate deal [laughter] and he said to leave, Mr. LaRue suggested that I leave the package at the desk and I said to Mr. Kalmbach that at no point have I been observed and I have been obeying the instructions as best as I know how and I certainly am not going to walk in and leave it at the desk because that is a third party. He said, "All right, handle it any way you want, as usual," et cetera.

What I did is there is a garage opposite where Mr. LaRue lived in the Watergate, his entrance had one telephone booth and it was very—it was being used quite a bit—so I didn't go there but I hated to go to where I did go, which was the Howard Johnson Hotel across from Watergate which was used in the original situation and that is where I wound up.

I placed the key, I called Mr. LaRue, and asked him to come down, I had a package, he was waiting the call—6 p.m. exactly, he was awaiting the call and he says fine, he would be right down. I had never met Mr. LaRue. I asked him to put two magazines under his arm, come across the street, come into the motel entrance and the money would be on the ledge in the motel.

When he came out, it is a wide street, I watched him through the motel window here [86]\* and he had two magazines. He stopped at the island because of heavy traffic, when he stepped off the island he was now approaching, I laid the money on the ledge in the envelope and I proceeded through a door back to the cigarette machines and I could see him come in, pick up the money, hesitate a moment, go right out and go back, back to his apartment.

Mr. LENZNER. So you had the money and him under observation until such time as he picked it up?

Mr. ULASEWICZ. That is correct.

Mr. LENZNER. Thank you very much, Mr. Ulasewicz.

Can you return now to the table and we will go back and pick up some more of your conversations with Mrs. Hunt.

Now, after you delivered your \$25,000 to Mr. Bittman, did you so advise Mr. Kalmbach that you had made that delivery?

Mr. ULASEWICZ. I did.

Mr. LENZNER. Now, after that, did you receive another phone call from Mr. Kalmbach instructing you to contact the writer or the writer's wife?

Mr. ULASEWICZ. Yes, and he gave me the telephone number to the writer's residence.

Mr. LENZNER. Who were you to call on that first occasion?

Mr. ULASEWICZ. The writer, who would be Mr. Hunt.

Mr. LENZNER. And did you have any instructions? What were you supposed to say to him?

Mr. ULASEWICZ. That a listing of the cost of the script and the same routine, the actors and who may be concerned in that show.

Mr. LENZNER. Did you call the number that Mr. Kalmbach had given you?

Mr. ULASEWICZ. No. The telephone number?

Mr. LENZNER. Yes.

Mr. ULASEWICZ. Yes, I did call.

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Mr. LENZNER. Did you have a conversation—did you ask for the writer and talk to somebody out there?

Mr. ULASEWICZ. Yes, I spoke to a male whom I assumed was the writer. He was evasive and wouldn't recognize my call in any way, and that was the end of that call, and I got back to Mr. Kalmbach who then—I had to await a return call, and the return call was to call again—and that if the writer's wife, ask for the writer's wife which, of course, was Mrs. Hunt.

Mr. LENZNER. Did you call and ask for the writer's wife and talk to somebody?

Mr. ULASEWICZ. I did, and she answered the phone.

Mr. LENZNER. And you identified yourself as Mr. Rivers?

Mr. ULASEWICZ. Right.

Mr. LENZNER. And what—

Mr. ULASEWICZ. She was expecting the call so that the contact was first made at this point with Mrs. Hunt.

Mr. LENZNER. Could you describe the conversations that you had with Mrs. Hunt?

Mr. ULASEWICZ. Yes. I told her that I was calling regarding the figures and Mrs. Hunt stated that she started with a list of necessities of attorneys, attorney fees, and she went into the persons down, referring to people down South, with the necessity for aid.

Mr. LENZNER. I take it, Mr. Ulasewicz, you had a series of phone conversations during July of 1972 with Mrs. Hunt?

Mr. ULASEWICZ. That is correct.

Mr. LENZNER. Well, can you tell the committee the substance of what those conversations concerned?

Mr. ULASEWICZ. Initially, Mrs. Hunt was—when she went into figures—I would inform her that I am not to negotiate, I was simply in a position to deliver whatever was necessary. However, she injected herself continually and early feeling that I would pass a message on or something of that type. She started out initially in the early conversation requesting rather than demanding or building up, but she would mention—she started with herself, the fact that she had lost her own job due to this and that should be taken into consideration, and that with that there are certain things with the job that, for instance, hospitalization, and whatever benefits might be there, that had been lost, and that she thought that perhaps \$10,000 or \$15,000 might—and this is no matter how many times I would try to stop her she would continue in with that. She said she was sure the same situation was occurring, and there was apparently—the calls I cannot separate completely but where it started from the four instances of dropping the money, she started with this suggestive way and then got into it heavier each time. Subsequently, she would mention the necessity of, that Mrs. Liddy was undergoing some psychiatric treatment or might be undergoing, and that she was a school teacher and that she probably would not be able to work as a result of this and that should be another amount of money.

When she spoke of costs to Mr. Hunt, her husband, Mr. McCord, Mr. Liddy, she gave figures of approximately \$3,000 a month would be satisfactory, and she had hoped that that might be done in some multiples so we would not go through this thing monthly, and then she mentioned the name of Barker and he was particularly—this is in the four conversations, not all in this one.

Mr. LENZNER. I understand.

Mr. ULASEWICZ. And it built up in that and no matter how many times I would say I am not negotiating, she got her bit in, and, of course, it continued in that manner.

When she got into Barker, she explained Mr. Barker had some peculiar problem in this matter, he was dealing with the people down South, that others may have become involved other than they started originally—there were some bail problems down South. She mentioned that she, in the course of these conversations over this period of time, that she was the one that was delivering the money to the various people after she had obtained it from me. Then she mentioned Sturgis, Gonzales, Martinez, and when she had mentioned Barker, she mentioned a sum of \$10,000 for under-the-table, and she mentioned Barker with his problems and with other people suggesting that there were others possibly involved, and this is toward the final calls, so excuse me.

Mr. LENZNER. With reference to Mr. Barker let us just stick with him for a second. When she made reference to him she was asking or seeking a specific sum of money, is that correct?

Mr. ULASEWICZ. Yes, with Mr. Barker.

Mr. LENZNER. Yes, sir.

Mr. ULASEWICZ. She was asking a sum of money which wound up to \$23,000.

Mr. LENZNER. How did she break that down?

Mr. ULASEWICZ. She broke it down \$10,000 bail, \$10,000 under-the-table, and \$3,000 for other expenses he was incurring with either coming up in this area and going back down or suggesting something of that type.

Mr. LENZNER. Then, when she spoke about her own expenses for—I take it, travel for delivering these funds?

Mr. ULASEWICZ. Right.

Mr. LENZNER. How much was she seeking for that?

Mr. ULASEWICZ. \$5,000 for her personal expenses.

Mr. LENZNER. When she talked about her travels, did she also discuss with you her concern about the people down South and what assurances they might be given?

Mr. ULASEWICZ. She wanted to, she was concerned that they receive money likewise for the support of their families and for attorneys.

Mr. LENZNER. Was there any discussion concerning the impending trial and its effect on the people down South?

Mr. ULASEWICZ. Yes; that some of them were getting uneasy, were getting nervous, and she intimated that unless the money was forthcoming that that certainly would help alleviate the situation.

Mr. LENZNER. You spoke about multiple sums, and I take it—by the way you were transmitting these requests, these concerns of Mrs. Hunt to Mr. Kalmbach?

Mr. ULASEWICZ. Continually; and no action taken until he would come back with an answer.

Mr. LENZNER. And was there an answer to the multiple sums that Mrs. Hunt was seeking for the defendants?

Mr. ULASEWICZ. Yes; it was to be \$15,000 to McCord, Liddy, and Hunt, \$6,000 to Barker, \$4,000 to Sturgis, \$2,000 to Gonzales, \$2,000 to Martinez.

Mr. LENZNER. And for how long a period was that to cover?

Mr. ULASEWICZ. Five months.

Mr. LENZNER. Now, in a later phone conversation with Mrs. Hunt, did that become a matter of concern?

Mr. ULASEWICZ. Yes; she said it was causing a problem down South because it so happened that they were concerned because the 5 months ended up in a period just after the election, and from that I gathered they feared that that was deliberate, and I reminded Mrs. Hunt she is the one that brought this matter up and I was cutting it off and as I did with the negotiations and I said, "I certainly do not think that is any situation here that I am concerned with, you will have to stick with the amount, the cost of the script," and so forth.

Mr. LENZNER. When you say down South, by the way, Mr. Ulasewicz, what are you referring to, do you know what Mrs. Hunt was referring to?

Mr. ULASEWICZ. The Florida area, Florida.

Mr. LENZNER. Now, was there also a discussion with Mrs. Hunt about the attorneys in the case?

Mr. ULASEWICZ. Yes; there was.

Mr. LENZNER. Would you tell us what she said to you about the attorneys?

Mr. ULASEWICZ. She said the attorneys, and she mentioned names of the defendants and their attorneys—she mentioned \$25,000 for Bittman for Hunt. Now, this was in addition, and I do not know if she knew I delivered the \$25,000, but she did present to me again in this text that Hunt and Bittman \$25,000; that McCord with Lee Bailey, \$25,000; Liddy with Maroulis, \$25,000; Barker with Rothblatt, \$25,000. The three others, each \$10,000, a total of \$30,000.

Mr. LENZNER. All right.

You were transmitting again those figures to Mr. Kalmbach?

Mr. ULASEWICZ. Correct.

Mr. LENZNER. Now, when you delivered your first delivery of \$40,000 to Mrs. Hunt at National Airport, how was that figure arrived at?

Mr. ULASEWICZ. Mr. Kalmbach gave me that figure, and at that time, it was the only time in these that he—in that message was to say a certain amount for people—and it was like a downpayment, because it was obvious that the \$75,000 was not going to cover into what we were getting.

Mr. LENZNER. And as a result you later picked up the various locations initial fund.

Mr. ULASEWICZ. Additional sums.

Mr. LENZNER. By he way, did there come a time when you totaled up the amounts of money that Mrs. Hunt was seeking?

Mr. ULASEWICZ. Well, it was, yes, it was in the vicinity of \$400,000 to \$450,000.

Mr. LENZNER. And did you have a conversation with Mr. Kalmbach concerning that figure and Mrs. Hunt's demands on you in California when you went to pick up the \$75,000 out there?

Mr. ULASEWICZ. Yes; that was in August, and it was the last pickup from Mr. Kalmbach, and shall I go through it?

Mr. LENZNER. Yes, why don't you tell us what you said to him and he said to you.

Mr. ULASEWICZ. When he picked me up in his car in the airport car in Orange County Airport and we sat in the car, and just prior to this, I had already suggested to Mr. Kalmbach that this thing has definitely gone a different direction than originally anticipated. Originally anticipated being that \$75,100 was going to be the amount involved, and that the person to get it would probably be one person, in that case we started with Mr. Caddy and it was a direct confrontation.

In all these conversations, Mr. Kalmbach was as upset about it as I was as I related it to him. He certainly didn't like it in any fashion as no more than I did, so we got along very well on that score. When we met in the automobile, I got in the car and Mr. Kalmbach said "Tony, what's your opinion of all this?" and I said, "Well," I am going to try to recall some exact words because the first statement I made to him, I said, "Well, Mr. Kalmbach, I will tell you something here is not kosher." He kind of looked at me, and I said "Well, it's definitely not your ball game, Mr. Kalmbach." I said "Whatever has happened we started with no negotiations, we are into negotiations, we started with \$75,000 and now we are into a sum which we have raised, we have now got something like \$220,000 coming in or \$219,000 was the exact figure and we are only approaching half and I know that the next conversation I have that figure has got to go up from all inferences and all."

I said "Certainly, Mr. Kalmbach, I know your feelings in the matter, I know how we started, what you said. It was legal but it was now leading up to a point and I feel I must tell you," and he understood that was my last to be mine and I recommended very strongly to Mr. Kalmbach that he likewise desist from it regardless of how it started out and of all good intentions and he said that he would, he assured me of that, not that he had to assure me, we were from different stages of life. However, he did agree with me that this was time to quit it.

Mr. LENZNER. Now, after that meeting in California, did you receive a call from him in September of 1972 asking you to deliver the money that you already described to Mrs. Hunt and Mr. LaRue?

Mr. ULASEWICZ. Yes.

Mr. LENZNER. Would you just tell us what he said to you about that delivery and what you said to him?

Mr. ULASEWICZ. In that call, it was a little unusual, because the inflection in his voice indicated irritation or something unusual as compared to any other time that I spoke with him. I could not fathom of course, and I didn't ask him why, but he was very anxious that I be able to pick up that, make the deliveries on the same day, one around noontime to Mrs. Hunt, and one at 6 p.m. and it seemed very urgent. Now at this time I was residing in the town of Dade in Saratoga County in New York and he wanted me for the next morning and I explained to him there is an airplane problem, and likewise I mentioned to him, my wire has about 10 lines on it and I mentioned to him, that the laundry was in the icebox.

Mr. LENZNER. What was his response to that?

Mr. ULASEWICZ. Well, kind of a long pause and I said, "Well, you know the money is in the vault in New York." [Laughter.]

So he said "Oh," something to that effect, now he knew I did have a problem. However I did resolve the problem, the way we left that was OK if I could not, would I please take care of Mr. LaRue's request of 29. It was obvious I would miss the first one, however, I did get an



early flight out and I did get into New York City just prior to bank opening or just about when it opened, did remove the money which was the last of what we have had, and I got into Washington and I managed to make the arrangements as previously described of delivery to Mrs. Hunt in the same manner, and then to Mr. LaRue.

Mr. LENZNER. And you delivered \$53,500 to Mrs. Hunt on that date?

Mr. ULASEWICZ. Correct, and \$29,900 to Mr. LaRue.

The next day or the second day, Mr. Kalmbach called me back and seemed irritated again and said as much as, what happened?

I said, "Well, what is wrong?"

And he said, "Did you deliver the money?"

I said, "Yes, I delivered both amounts."

He said, "Did you deliver both on the same day?"

I said, "I sure did."

He said, "No kidding," words to that effect.

I said, "Yes, both amounts were delivered." I do not know what the significance of it was, and I said, "I delivered them on the same day."

He said, "Oh, fine," and that was our last conversation regarding the situation.

Mr. LENZNER. That was approximately when you delivered those funds?

Mr. ULASEWICZ. September 19.

Mr. LENZNER. Now, during this period of time, Mr. Ulasewicz, you were on Mr. Kalmbach's payroll; is that correct? He was still paying you for your investigative duties?

Mr. ULASEWICZ. That is correct.

Mr. LENZNER. Did you receive any expense money for your travel and whatever expenses you incurred?

Mr. ULASEWICZ. Yes.

Mr. LENZNER. How much was that? Do you know if Mr. Kalmbach received any expense funds?

Mr. ULASEWICZ. No; but, at one point in the delivery, the four deliveries to me, he had mentioned that one of the amounts of \$1,000, he had taken \$1,000. He did not indicate it was for expenses. He just said he took \$1,000.

Mr. LENZNER. Now, the figures that you gave us for the attorneys and the defendants, those are the figures that you understood were going to be paid to the attorneys and the defendants?

Mr. ULASEWICZ. That is correct.

Mr. LENZNER. You do not have firsthand knowledge whether Mrs. Hunt did or did not transmit those funds?

Mr. ULASEWICZ. None whatsoever. However, the funds were transmitted, because, if they were not, why, of course, Mr. Kalmbach would not have known it.

Mr. LENZNER. Mr. Chairman, I have no further questions at this time; thank you.

Mr. THOMPSON. Mr. Chairman, Mr William Shure will ask questions of the witness

Mr. SHURE. Mr. Ulasewicz, you testified earlier to this committee that you were initially hired to do some discreet investigations and that this hiring was done through your connection with Mr. Caulfield; is that correct?

Mr. ULASEWICZ. That is correct.

Mr. SHURE. And that you were in fact interviewed by Mr. John Ehrlichman?

Mr. ULASEWICZ. That is correct.

Mr. SHURE. What role did Mr Kalmbach play in your prior employment with regard to these discreet investigations?

Mr. ULASEWICZ. I met with him to discuss the arrangements to pay me. I was on Mr. Kalmbach's payroll.

Mr. SHURE. So, in other words, Mr Kalmbach's role prior to the events which you have just described really was just as a conduit for payment to you for the services that you were rendering to Mr. Caulfield and Mr. Ehrlichman; is that not so?

Mr. ULASEWICZ. That is a fair statement.

Mr. SHURE. And did Mr. Kalmbach ever order you to conduct any investigations?

Mr. ULASEWICZ. No.

Mr. SHURE. So that, when he called you on the 29th, this was the first time that he really asked you to get involved in anything by way of activity?

Mr. ULASEWICZ. That is correct.

Mr. SHURE. Now, did you check with Mr. Caulfield and find out whether or not Mr. Kalmbach was operating with any authority?

Mr. ULASEWICZ. No; Mr. Kalmbach had received my telephone number from Mr. Caulfield, but I did not discuss it with Mr. Caulfield in any way.

Mr. SHURE. Did Mr. Caulfield inform you that he had given Mr. Kalmbach your number?

Mr. ULASEWICZ. At a subsequent time. I do not know if it even came up, but nothing was relative to me about that.

Mr. SHURE. But at the period of time in terms of the 28th or 29th of June 1972, you merely relied on Mr. Kalmbach's statement?

Mr. ULASEWICZ. Only Mr. Kalmbach, correct.

Incidentally, I may say another conversation that occurred, recalling as you are asking me—in that room with Mr. Kalmbach, also, one of his instructions was that I discuss it absolutely with no one. And when we got into it later on the telephone, to make sure of that, I said to Mr. Kalmbach—at one point he asked me how I would be delivering the money or how the undertaking would go on—I said to Mr. Kalmbach, it would be better if you did not know what manner or method I am going to use to distribute it. I understand what you want and I am going to deliver it to the best of my ability, but I do not think you should know. I told him something like Washington would be a sieve. If it leaks out what I am doing, you would certainly always feel that I failed in your trust. I said as far as your situation, whatever your contact is, I will not know it and you will never accuse me of leaking out something I do not know.

Mr. SHURE. Then can I assume by your statement that you did not discuss this activity with Mr. Ehrlichman either, is that correct?

Mr. ULASEWICZ. Absolutely not.

Mr. SHURE. Obviously, this was an unusual activity, was it not?

Mr. ULASEWICZ. Well, depending on who was doing it. To me it was not unusual. It was just another assignment.

Mr. SHURE. Had anyone ever given you \$75,000 or \$100,000 before to discreetly or surreptitiously distribute to people known to be involved in a criminal matter?

Mr. ULASEWICZ. No.

Mr. SHURE. I take it you have 27 years experience in the New York City police force?

Mr. ULASEWICZ. That is correct.

Mr. SHURE. So was not this in fact an unusual procedure for you?

Mr. ULASEWICZ. Well, no, I did not consider it that. Many assignments I had were unusual. But as far as money—as far as the money—while I was in the police department, I did have occasion to be present with two heads of governments in which there were sums of money involved, I would say two suitcases full, which sat next to me in a car, obtained in a bank in Boston, all strictly legal, of course. But that would be about \$2 million.

Mr. SHURE. But, Mr. Ulasewicz, you did not deliver that money to defendants in criminal cases and lawyers, did you?

Mr. ULASEWICZ. No, but neither, in this case, Mr. Kalmbach and I were both in a frame of mind that we were not delivering it to defendants at that time or whatever they might be. It was strictly for legal fees as he explained and for their families, and I certainly went along with that.

Mr. SHURE. Did you ever check with your friend, Mr. Caulfield, and find out whether or not this activity was authorized?

Mr. ULASEWICZ. No, sir.

Mr. SHURE. Now, going back to the amount of money that you had, from what I understand in your response to Mr. Lenzner, there were occasions, and I think at least four, that you were carrying at least \$75,000 in a paper bag and traveling back and forth between Washington and New York City, is that correct?

Mr. ULASEWICZ. That is correct.

Mr. SHURE. What was the arrangement that you had with Mr. Kalmbach if the money was lost?

Mr. ULASEWICZ. The thought never occurred to me. I was sure I would not lose it. [Laughter.]

As a matter of fact, one of the reasons I carried it in such a manner, in an envelope rather than a bag—the only time the bag came in was the laundry bag, but after that, it was a little more substantial thing. If you carry a briefcase, if you carry any type of thing that attorneys carry and so forth, you are more apt to lose that. You may check it, you may lay it down by a table, you may make a phone call in a railroad station or airline terminal. If you are carrying a sack of papers or so, you are instinctively going to be having it under your arm or in your lap. The best method in my opinion, is to keep it exactly as I was doing.

Mr. SHURE. So you never discussed with Mr. Kalmbach what risk there was in losing the money?

Mr. ULASEWICZ. We never discussed it and I think Mr. Kalmbach trusted me to do as he directed.

Mr. SHURE. How would you have prevented somebody from picking up the envelope you left on the counter at Howard Johnson's with \$29,100 in cash?

Mr. ULASEWICZ. I would certainly grab it out of the fellow's hands and that would be the end of that.

Mr. SHURE. What about if one of the keys fell off the phone box before Mrs. Hunt got there?

Mr. ULASEWICZ. The way I secured it, it was not about to fall off. As Mr. Lenzner mentioned, there still is some scotch tape now, 6 or 8 months later. I had no problem with it falling.

There were some others. One instance happened when a fellow came around wiping the phone booths and dusting.

Mr. SHURE. What did you do when this fellow came along?

Mr. ULASEWICZ. I sweated a little bit. But he was not—I am not picking on the fellow, but actually, his cleaning process was not that thorough. [Laughter.]

Mr. SHURE. Were all these sums of money that were delivered to you, the four occasions that Mr. Kalmbach gave you the cash, were they all in \$100 bills?

Mr. ULASEWICZ. No, at one point, there were 50's, 20's, and even a bundle of singles, maybe 50 or 100 singles. It was only on one occasion. On every other occasion, they were \$100 bills.

Mr. SHURE. Were those \$100 bills in sequence?

Mr. ULASEWICZ. No, they were mixed from old money to new money. They were mostly old, used \$100 bills.

Mr. SHURE. So you never worried about the money being traceable back to you?

Mr. ULASEWICZ. No concern whatsoever.

Mr. SHURE. Now, Mr. Ulasewicz, you discussed with Mr. Lenzner some conversations that you had on the phone with Mrs. Hunt. I am curious to know what Mrs. Hunt's attitude was as she was making these increased demands to you for more money.

Mr. ULASEWICZ. Well, her attitude was, I would say, to milk a good thing would be a way to put it. She kept increasing the amounts, of course, as I have stated. She began, with, and I know I speak of a lady that is gone and I don't want to sound—she was very evident. When I first got to the situation where I was talking with a woman on a situation like this, I was a little bit concerned. However, it worked out very well, as far as we understood each other.

However, where this was a request, it became into a demand fashion almost. And if there was some concern or arguments between these conversations that were going back with me, she reflected that.

Mr. SHURE. Was her attitude one of she was entitled to what she was demanding?

Mr. ULASEWICZ. Oh, I think all the people felt they were entitled to it.

Mr. SHURE. Did she ever reflect to you, for example, what would happen if her particular needs were not met?

Mr. ULASEWICZ. No.

Mr. SHURE. Let's refer to the conversation concerning Mr. Liddy. She indicated to you that Mr. Liddy was desperate for cash, didn't she?

Mr. ULASEWICZ. That is correct.

Mr. SHURE. Did she indicate to you what the result would be or what the consequence might be if Mr. Liddy weren't given the cash?

Mr. ULASEWICZ. No.

Mr. SHURE. Well, why do you suppose she kept asking you for more money?

Mr. ULASEWICZ. Well, obviously, to keep everybody happy, whatever the situation might be. All legal fees and as we took it, as we discussed it, I assume it was for helping the family. Now, if Liddy's family were in desperate need of money, with a cutoff salary or whatever it might be, this is the way I took it.

Mr. SHURE. I take it Mr. Martinez and Mr. Gonzales and Mr. Sturgis were not entitled to quite the legal representation the others were, if they were only getting \$10,000 and the others \$25,000.

Mr. ULASEWICZ. Apparently. It is the caste system, I guess.

Mr. SHURE. What did she say concerning Mr. Barker? Did she make any reference to the time Mr. Barker might have to spend in jail?

Mr. ULASEWICZ. I don't think she ever referred to time in jail for Mr. Barker at all. There was one point in the conversation, and they were toward the end, where she indicated that—you see, the drops were lower and whatever money I was giving, and she became concerned with, and I think she might have wanted to use it as a kind of weapon, going back to me, thinking I was in policy or something of that type. There was an insinuation that in addition, that the distribution of money to help the families, et cetera, might work in with the possibility of keeping them, stop worrying about jail sentences, as she mentioned.

She knew it as a barter weapon to me, saying, you know, I am trying to tell her everything is going to be all right, then I would tell her off, say, I am sorry, there is no negotiation, here are the facts, and so on.

Mr. SHURE. But you told her you had no authority to negotiate with her?

Mr. ULASEWICZ. Absolutely.

Mr. SHURE. And you had no authority to make decisions as to what she would get?

Mr. ULASEWICZ. Absolutely. That is correct.

Mr. SHURE. Did you have the impression that Mrs. Hunt was talking to someone other than you concerning the amounts of money she was to get?

Mr. ULASEWICZ. Yes, sir.

Mr. SHURE. What gave you that impression?

Mr. ULASEWICZ. The fact that the way Mr. Kalmbach would come back to me and say how much to leave. Plus the fact that she would indicate that of the amount she received, they weren't enough to pay all these other fees, the high fees for attorneys, et cetera, and when would that money be forthcoming.

Mr. SHURE. So in other words, she would make those demands to you and you would convey those demands to Mr. Kalmbach?

Mr. ULASEWICZ. That is correct.

Mr. SHURE. Mr. Kalmbach would subsequently call you back and say, she is to get this amount of money, and if you delivered that amount of money, there was no problem?

Mr. ULASEWICZ. Correct.

Mr. SHURE. So you assume she was in contact with somebody else?

Mr. ULASEWICZ. That is correct.

Mr. SHURE. Did she say who she was in contact with?

Mr. ULASEWICZ. No.

Mr. SHURE. Did Mr. Kalmbach say anything?

Mr. ULASEWICZ. No, there was nothing of whom we were speaking. But this—at one time he said to me whom she was meeting. There was some conversation, I recall, where she conducted some type—there was a sit-down deal with defendants from time to time. Like when she mentioned McCord's financial difficulties, that he was contemplating mortgaging his residence and she mentioned the fellows down South, which is indicative of the fact that there were some meetings going on.

Mr. SHURE. Then she was meeting with the defendants?

Mr. ULASEWICZ. With the defendants.

Mr. SHURE. But did she give you any indication that she was meeting with anyone from your side concerning how much money she was to be paid by your sources?

Mr. ULASEWICZ. Actually, I had no side. I was kind of a loner. However, I would take it up with Mr. Kalmbach and the answer would be no.

Mr. SHURE. Well, you were, then, the only person that was conveying her initial demands or her subsequent demands?

Mr. ULASEWICZ. To the best of my knowledge, I was the only person that went through this with her.

Mr. SHURE. But it was clear to you that after the demands were made, it was established and agreed by her, the amounts that you were instructed to deliver?

Mr. ULASEWICZ. Correct.

Mr. SHURE. Let's refer to that conversation you had with Mr. Kalmbach in the airport at Orange County, Calif. What date is that, if you recall?

Mr. ULASEWICZ. That was August 3 to 5, in California.

Mr. SHURE. And that entire conversation took place in the car?

Mr. ULASEWICZ. In the car.

Mr. SHURE. And that was the occasion that you received the last payment of \$75,000 from Mr. Kalmbach?

Mr. ULASEWICZ. That is correct.

Mr. SHURE. Mr. Kalmbach indicated yesterday in his testimony that he came to a conclusion somewhere along the way that he had to get out of this business of paying off the money. Was it your suggestion to him that you both get out of this business?

Mr. ULASEWICZ. It sure was.

Mr. SHURE. In other words, you brought it up to him?

Mr. ULASEWICZ. Yes, and in phone calls prior to this meeting, likewise.

Mr. SHURE. What was Mr. Kalmbach's response to these phone calls?

Mr. ULASEWICZ. He was getting more and more concerned about what was going on, and his reaction was much the same as my own thoughts, that we were engulfed or caught in some sort of flow of events and moneys that we did not contemplate or anticipate in any way. We started out doing what we considered were legal and for purposes to assist, and Mr. Kalmbach, in all my conversations, if the word is exuded, that is what he did to me. We didn't have to go into it in any way.

When we were in the automobile, this was the final thing that we were going to go through, and as I told you, I started right out with him saying as I did.

Mr. SHURE. In other words, the amounts that Mrs. Hunt was demanding and the amounts Mr. Kalmbach was giving to you were getting to be so vast that it was apparent they were going beyond just paying legal fees and meeting the needs of the families of the defendants?

Mr. ULASEWICZ. That is a fair statement.

Mr. SHURE. And that was the reason that both you and Mr. Kalmbach came to the conclusion that you should get out of the thing?

Mr. ULASEWICZ. Yes; the money plus the way we had to continue to handle it and so forth. All of that.

Mr. SHURE. Did you begin to feel you were becoming enmeshed in something that might be illegal?

Mr. ULASEWICZ. Let's say that I had a little shaky feeling the way things were going.

Mr. SHURE. And were you beginning to get concerned for yourself, as to your involvement?

Mr. ULASEWICZ. For myself and Mr. Kalmbach, because as I said before, the two of us were in this deep in this thing.

Mr. SHURE. Mr. Caulfield was your friend?

Mr. ULASEWICZ. Oh, yes.

Mr. SHURE. Did you contact him?

Mr. ULASEWICZ. No.

Mr. SHURE. Did you ever discuss with him about what you were getting involved in?

Mr. ULASEWICZ. No, sir, Mr. Caulfield is a Washington resident and any Washington resident is one of those holes in a sieve, no matter who he is.

Mr. SHURE. So I would assume, then, you felt the same way about Mr. Ehrlichman, who was living in Washington?

Mr. ULASEWICZ. Yes, but you see, Mr. Ehrlichman, the only conversation I ever had was that one at the airport when he hired me. Outside of that, I never had a phone call or personal conversation with Mr. Ehrlichman.

Mr. SHURE. But up until that time, had you ever done anything that you considered to be illegal?

Mr. ULASEWICZ. No, sir.

Mr. SHURE. Now you were caught in a measure that might be in some way involving you?

Mr. ULASEWICZ. That may become at some point or looked at. For the entire period of time that I was doing this for Mr. Kalmbach, it never occurred to me, that I did not consider that I did anything illegal for Mr. Kalmbach, neither did he; neither did I, as far as the facts presented to me.

Mr. SHURE. But you did state that from the amounts of money involved and the demands being made, that you were obviously making payments to Mrs. Hunt and others that exceeded the basic needs of attorney fees and family survival?

Mr. ULASEWICZ. Correct.

Mr. SHURE. After you made your last two dropoffs, which was what—September 19, 1972?

Mr. ULASEWICZ. September 19.

Mr. SHURE. Did anyone ever contact you again about becoming involved in this type of operation?

Mr. ULASEWICZ. No, sir.

Mr. SHURE. You were never asked again to make any further drop-offs?

Mr. ULASEWICZ. No, sir.

Mr. SHURE. Did you ever hear from Mr. Kalmbach with requests that you make further dropoffs?

Mr. ULASEWICZ. No, sir.

Mr. SHURE. No one else?

Mr. ULASEWICZ. No one anywhere.

Mr. SHURE. I have no further questions, Mr. Chairman.

Senator ERVIN. Senator Inouye.

Senator INOUE. Thank you very much.

Mr. Ulasewicz, you have testified that you, over a period of three drops, distributed \$135,000 to Mrs. Hunt, is that correct, sir?

Mr. ULASEWICZ. \$154,000 in four drops.

Senator INOUE. \$154,000, is there any way we can corroborate that statement, sir? Is there any way someone can support you?

Mr. ULASEWICZ. Well, I think the best way would be that if the money was not dropped and picked up, that somebody would have done a lot of hollering about it, because they were looking forward to getting the money. That is the only way which I think would be substantial.

Senator INOUE. You have indicated that you were on Mr. Kalmbach's payroll during the year 1972 and your pay was \$22,000?

Mr. ULASEWICZ. From July of 1969, when I started, I was on Mr. Kalmbach's payroll, yes, sir.

Senator INOUE. What sort of discreet investigations were you required to carry out?

Mr. ULASEWICZ. I beg your pardon, sir?

Senator INOUE. What sort of discreet investigations were you required to conduct?

Mr. ULASEWICZ. They were of a various nature and ranged from investigations of backgrounds of persons to organizations and types of that.

Senator INOUE. In carrying out the assignments, did you find it necessary to commit illegal acts such as breaking and entering?

Mr. ULASEWICZ. No, sir.

Senator INOUE. During the time you were working for the White House or for the committee, did you have contact with members of the intelligence-gathering units of the Justice Department?

Mr. ULASEWICZ. No, sir.

Senator INOUE. What about the FBI?

Mr. ULASEWICZ. No, sir.

Senator INOUE. The Treasury Department?

Mr. ULASEWICZ. No, sir.

Senator INOUE. The CIA?

Mr. ULASEWICZ. No, sir.

Senator INOUE. The Washington police?

Mr. ULASEWICZ. No, sir.

Senator INOUE. This is your testimony, then?

Mr. ULASEWICZ. Yes, sir.

Senator INOUE. We have received information suggesting that you had contacts with the New York Police Department. Is that correct, sir?



Mr. ULASEWICZ. Well, I was retired, of course, from the New York Police Department, yes, sir.

Senator INOUE. And you had access to their files?

Mr. ULASEWICZ. No, sir. Once I left the department, I did not have access. I would have to conduct, if I wanted any information or inquiries, I would have to do it then as a private investigator, in any fashion. I had no access to the records.

Senator INOUE. Then the allegation suggestion that you did have access to the files is false?

Mr. ULASEWICZ. Yes, sir.

Senator INOUE. And it is your testimony that you had no contacts in the D.C. Police Department?

Mr. ULASEWICZ. No, sir.

Senator INOUE. In your conversations with Mrs. Hunt, did she directly discuss the matter of immunity or pardon?

Mr. ULASEWICZ. No, sir.

Senator INOUE. How did she indicate to you that what she was asking for went beyond family expenses?

Mr. ULASEWICZ. Well, the figures that she kept giving me—I still took as expenses for the four families and for the counsel fees. If she went overboard on the figures, it would be because it was another purpose, whether she mentioned loss of jobs or whatever it might be, and she would present a figure.

Senator INOUE. Then you are changing your testimony, because the first time you appeared, you testified that Mrs. Hunt did discuss with you the matter of pardons and immunities. Isn't that correct, sir?

Mr. ULASEWICZ. No; I didn't testify to that, Senator, no.

Senator INOUE. I believe the record will so show.

Mr. SUTTER. May we have the testimony, Senator?

Senator INOUE. We will get it for you, sir.

Mr. SUTTER. Thank you.

Senator INOUE. You have testified that you distributed \$219,000 for Mr. Kalmbach and the last payment was on the 19th of September. The trial of the Watergate defendants did not start until January. Is it your testimony that after the 19th of September, you did not perform any similar mission for anyone else in distributing funds to these defendants?

Mr. ULASEWICZ. That is correct, sir.

Senator INOUE. Are you aware of anyone who did?

Mr. ULASEWICZ. No, sir.

Senator INOUE. Do you have any knowledge that the funds continued to go to the defendants from some other source?

Mr. ULASEWICZ. No, sir, I do not.

Senator INOUE. Did you maintain your contacts with people like Mr. Liddy and Mr. Bittman?

Mr. ULASEWICZ. No, sir.

Senator INOUE. You severed all contacts once you finished this assignment?

Mr. ULASEWICZ. Correct, sir.

Senator INOUE. You are still insisting that you had no access to the New York police files or the D.C. police files?

Mr. ULASEWICZ. You have my thinking, Senator, because apparently, you have a point there and I want to clear it up. By access, could I walk into an office or look at a record or something like that? No, sir.

Senator INOUE. Did you have friends there who would open the files to you?

Mr. ULASEWICZ. They would not open them, but I am sure if I made calls and if I wanted—they would not have to be on any particular instance. As a private investigator, I might call the squad or detective office or a precinct and say, I am a retired detective and if this is within the vein of conversation, I don't want any official record, et cetera, I would get information that might be about almost anything that was available. But I would not have access to records. I would not receive records as such.

Senator INOUE. And this information was available to the public?

Mr. ULASEWICZ. Not always, no.

Senator INOUE. Once again, your testimony is that you never committed an illegal act in carrying out your responsibilities and your assignments?

Mr. ULASEWICZ. Yes, sir.

Senator INOUE. I have a note here saying that the matter of pardons and immunity came up in your staff interview.

Mr. ULASEWICZ. Yes, sir, that is probably where that originates, yes, sir. Not in testimony, as my counsel reminds me. With the staff interview, yes, sir.

It came in the latter part of the negotiations over, when Mrs. Hunt was describing the money, down South, and things were very hard to control down South. And she said, it would make it easier if the money came through, and it was at this point is when she was, as I tried to describe it, using a demand or some form of pressure by saying that if the money comes down here, that would certainly help her in some statement of lesser jail sentence or whatever it might be.

Senator INOUE. Then, it is your testimony that you did discuss pardons and immunity?

Mr. ULASEWICZ. I did not discuss any pardon and immunity that I recall, in that fashion as you are putting it, Senator. [Conferring with counsel.] I discussed light sentences, the inference of light sentences, and that did come up in that latter part in connection that it would be easier for Mrs. Hunt to control these people.

Senator INOUE. Did you discuss the matter of light sentences with Mr. Kalmbach?

Mr. ULASEWICZ. No, sir.

Senator INOUE. Did you not think it was important enough?

Mr. ULASEWICZ. I may have mentioned it to him with all the other material that came in but at that time it did not—I would not have sat on that very heavy because at that time, in the context of time, I did not accept it as such. I thought it was a wedge from Mrs. Hunt in order to get a commitment for more money, and if I told it to Mr. Kalmbach and I do not say that I did, but if I mentioned it, it would have been in a passing manner.

Senator INOUE. You have been a member of the police department now for 27 years, and I gather from your record, a very distinguished service, and I presume that you know whether an act is legal or

illegal; certainly, you are quite versed with the criminal laws not only of New York City, but of Washington, D.C., if a fellow detective came to you and he says he has observed a man dealing in large sums of cash, placing keys in phone booths, dropping envelopes at Howard Johnson Motels, placing envelopes next to phone booths, lurking around the corners, using several drops, what would your conclusion be as to that person? Would your conclusion be that that person was conducting an illegal act?

Mr. ULASEWICZ. No, I would be suspicious of his actions. [Laughter.] I did not consider myself at this time—did not consider that I committed an illegal act.

Senator INOUE. Were your actions the actions of a man who had nothing to worry about so far as the law was concerned?

Mr. ULASEWICZ. In distributing the money, yes, sir.

Senator INOUE. In the manner of distribution.

Mr. ULASEWICZ. Yes, sir. When the proposition or the assignment was given to me by Mr. Kalmbach that was a stipulation I do that in a discreet and confidential manner and that would preclude any other way in my opinion, if I could do it, that is the way I would do it. What I had in mind was the purpose of this situation that the money was to go for legal fees, et cetera, and a man of Mr. Kalmbach's stature, who I know, of course, was the attorney to the President and has stated to me that it was legal in his consideration, that there was nothing illegal about it, and that is what was in my mind. Then, the second thing that came to me was to do the job as well as I could.

Senator INOUE. Were the recipients of these sums made aware that the distribution of these sums was to be secret?

Mr. ULASEWICZ. I do not think I understand the question, Senator.

Senator INOUE. Did Mr. Bittman know that your delivery of the \$25,000 to him was a secret delivery?

Mr. ULASEWICZ. Well, he knew that he was to come down and pick it up, that I did not want to confront him, yes.

Senator INOUE. Do you think Mr. Bittman declared the \$25,000 in his income tax return?

Mr. ULASEWICZ. I have no knowledge. I do recall in one conversation we mentioned where it went into a flight depository. Whether or not that is a record or not I do not know.

Senator INOUE. Did you at any time tell any of your recipients to keep this sum secret?

Mr. ULASEWICZ. No, sir.

Senator INOUE. What do you mean by "under the table" money?

Mr. ULASEWICZ. This was a phrase that was used by Mrs. Hunt, explaining why that money was necessary in Florida, and it was not—I had asked her at one time at Mr. Kalmbach's direction and she alluded to the fact that it might have been for other people, other persons whom have not been mentioned to me by name.

Senator INOUE. In your 27 years as a police officer I am certain you have heard the phrase "under the table," which usually means a pay-off, a cumshaw, whatever it is, it is illegal, is it not?

Mr. ULASEWICZ. I think the circumstances would determine that, Senator. I am not a lawyer, I am not backing off the—on the fact I was a police officer.

Senator INOUE. Do you mean to tell me that if one of your colleagues told you that Mr. so-and-so is receiving money under the table, all you would do is get a little suspicious? Would not the bells start ringing here?

Mr. ULASEWICZ. No, not yet. I would make an investigation of that allegation and in this case I still have in mind that it is legal fees and what she is suggesting and apparently did not want to give me names of other individuals is something that is the conclusion that we came to. But what she is doing is actually passing the money on to someone other than the name she had given me.

Senator INOUE. Now that you look back to all of the activities, as we have asked most of our witnesses to look back in retrospect, do you still consider that the activities in which you were involved were completely legal?

Mr. ULASEWICZ. Yes, sir.

Senator INOUE. Even if the payment was for hush money?

Mr. ULASEWICZ. Well, the term "hush money" was developed by others. At the time as I described, it was strictly for the legal defenses, Senator, plus assistance to the families, reiterated to me several times in a room—

Senator INOUE. Do you still believe this to be true?

Mr. ULASEWICZ. Do I believe it? At that time, yes.

Senator INOUE. No, today, right now.

Mr. ULASEWICZ. I believe when Mr. Kalmbach and I set out for this thing that is all was in our minds and in mine, he had me fully convinced of that.

Senator INOUE. I do not question you on that but today, do you believe that to be true?

Mr. ULASEWICZ. Not likely.

Senator INOUE. I thank you very much, sir. Thank you, sir.

Senator ERVIN. Senator Gurney.

Senator GURNEY. Thank you, Mr. Chairman.

Going back to the beginning, Mr. Ulasewicz, of your testimony, did you ever determine who this Mr. Caddy was?

Mr. ULASEWICZ. I had read in the papers that he was an attorney, and that I believe that he was the attorney who was to be notified when, if some of the—if somebody that he had been assigned as an attorney in case somebody got in trouble.

Senator GURNEY. Was that his real name?

Mr. ULASEWICZ. I believe so.

Senator GURNEY. But he never identified himself to you, what his profession was, or who he was?

Mr. ULASEWICZ. He said, when I spoke to him he did say he was an attorney, I assume or at least in some capacity because he—that in our final conversation that he—was sitting with somebody from the law firm and he was telling me now that he does not want to go any further with this and I so reported.

Senator GURNEY. He did not indicate in his conversations with you that he knew anything about what you were talking about, is that right or did he?

Mr. ULASEWICZ. I would say that is fairly correct, Senator, yes.

Senator GURNEY. Let us go back again to the very beginning of this scenario. Your first conversation with Mr. Kalmbach. As you un-

doubtedly know, this is extremely important to determine whether his activities and your activities were lawful or unlawful. Now, what did he say when he contacted you about what he wanted you to do?

Mr. ULASEWICZ. In the hotel room he told me that he had received an assignment.

Senator GURNEY. Well, before that?

Mr. ULASEWICZ. A telephone call requesting that I come the next day to Washington, D.C., to meet with him.

Senator GURNEY. And why did he say he wanted you to come?

Mr. ULASEWICZ. He spoke of an assignment, an important assignment for me.

Senator GURNEY. Did he mention anything about what the assignment was?

Mr. ULASEWICZ. No, sir.

Senator GURNEY. Just important.

Mr. ULASEWICZ. Yes, sir.

Senator GURNEY. All right. Continue now, you came to Washington.

Mr. ULASEWICZ. When the conversation started, Mr. Kalmbach impressed upon me that the assignment is legal, that it was to raise finances, to provide money, to provide money for attorney fees, and for members of families of persons who had gotten into trouble. He was very nervous, he was kind of unsteady, and it was apparent he did not know how to present the thing any further and he repeated it about three times at the point that I said—

Senator GURNEY. Why would he be nervous? I do not understand.

Mr. ULASEWICZ. I think it was new to Mr. Kalmbach or he was not sure in what direction it might take or perhaps it might even be that speaking to me about it for the first time. Perhaps there were different ends of the Earth or something like that, I do not know.

Senator GURNEY. You mentioned he said it was legal. How did that come up in the conversation? Did you ask him if it was legal?

Mr. ULASEWICZ. I may have asked him, but I think he wanted to reassure me, and he said that, and he came out with that statement.

Senator GURNEY. Did he say how he knew it was legal?

Mr. ULASEWICZ. No; but I did receive the distinct impression that he had searched this thing thoroughly out in his mind or whatever manner that he would use. He was confident and very sure.

Senator GURNEY. No question, though, that he did mention to you what this money was to be delivered for, is that right?

Mr. ULASEWICZ. Yes, sir.

Senator GURNEY. And that was what?

Mr. ULASEWICZ. Watergate people in connection with the people in the Watergate incident.

Senator GURNEY. And for what purpose?

Mr. ULASEWICZ. For legal fees and assistance to their families.

Senator GURNEY. Now, let us go again to your first conversation with Mrs. Hunt. Would you go into that again, I did not see this witness sheet until this morning and I have just heard your testimony here first hand and I am not exactly sure that I understand what transpired. There were conversations about what she needed, is that right?

Mr. ULASEWICZ. That is correct, Senator.

Senator GURNEY. Describe again what she said to you.

Mr. ULASEWICZ. Well, in the initial conversation she went into what sums of money might be needed.

Senator GURNEY. And describe those carefully now to the committee.

Mr. ULASEWICZ. And what they might be needed for, and she went—in the early conversation she mentioned herself as the fact that she would—she was going to—she had been fired, she had lost her job and that should be taken into consideration.

Senator GURNEY. Did she say what she had been doing?

Mr. ULASEWICZ. She was, I think it was, as I recall she was, a secretary or for some foreign embassy, something of that type. I did not go into that because this, being our first contact I immediately tried to inform her of my position in the matter, that I was simply to have gotten from her a figure for the script, et cetera, and definitely per instructions from Mr. Kalmbach in no way was I to conduct any negotiations.

Senator GURNEY. All right. What was that figure?

Mr. ULASEWICZ. The first figure?

Senator GURNEY. Yes.

Mr. ULASEWICZ. The figure that I delivered to her was \$40,000.

Senator GURNEY. No; that she mentioned in this first conversation.

Mr. ULASEWICZ. She went into—by the time she finished the conversation it was probably around \$100,000.

Senator GURNEY. How was that broken down?

Mr. ULASEWICZ. It was broken down with law fees, and I cannot, with all the conversations—I kind of have to lump them in because of the sequence. The original I remember but it always was with attorney fees as I testified, and she had mentioned an attorney and a defendant and she mentioned the difficulties of—I was going to say trials and tribulations, I was not referring to a trial, of how much money would be needed, and bail money for the people down South and salaries for their living expenses that she would arrive at \$3,000 a month for the principals and then she went down the scale.

Senator GURNEY. I understand that is what you testified to at first, but I would like to understand is what this breakdown of this figure of \$100,000, that is the first figure?

Mr. ULASEWICZ. I am sorry, sir, she did not mention a figure of \$100,000, she never gave me a flat figure.

Senator GURNEY. What figures did she mention besides the \$3,000 per month for the leaders?

Mr. ULASEWICZ. She would mention, and this is over all the conversations, I can't nail it down to the first one, but she would mention money for, in connection with Liddy's wife, her medical problems, the fact of being a teacher.

Senator GURNEY. How much?

Mr. ULASEWICZ. \$10,000, \$15,000 per year.

Senator GURNEY. \$10,000 or \$15,000 for Mr. Liddy's wife, is that right?

Mr. ULASEWICZ. Right. The same for him—rather for her, somewhere her annual salary.

Senator GURNEY. \$15,000 for Mrs. Hunt?

Mr. ULASEWICZ. And then the legal fees came into it.

Senator GURNEY. How much were they?

Mr. ULASEWICZ. They amounted to about \$130,000 over a period of time, it is not in the one conversation.

Senator GURNEY. Well, this, in this first conversation though what—you must have had a pretty vivid impression of that. After all this was a unique assignment when you talk to Mrs. Hunt and I am trying to pin down now what you first gained from her as to what she wanted.

Mr. ULASEWICZ. Well, then I would guess that she brought up Mr. Barker, Mr. Sturgis.

Senator GURNEY. Did she, you are guessing now, did she or didn't she?

Mr. ULASEWICZ. Well, it is very hard for me to separate the amounts for each conversation. But I know in the initial one in addition to mentioning here on she started with and then it wasn't a demand, it was a request to consider herself in addition for attorney fees, the cost of the script, the attorney fees and all she went through the figures and she didn't come up constantly with a solid figure.

Senator GURNEY. Well, so far now we have got \$3,000 per month for living expenses for the leaders, \$10,000 or \$15,000 for Mrs. Liddy because she had psychiatric problems, \$10,000 or \$15,000 for Mrs. Hunt because she needed that, that is the only figures we have yet. Now, what are the others?

Mr. ULASEWICZ. Mr. Barker.

Senator GURNEY. How much?

Mr. ULASEWICZ. Would be \$6,000.

Senator GURNEY. For what, legal fees?

Mr. ULASEWICZ. No, that would be for living expenses.

Senator GURNEY. For a year or how long?

Mr. ULASEWICZ. For—1 minute, let me see, it would be, the \$3,000, all these started as a per-monthly basis in which later on or probably the subsequent conversation, a multiple of 5 was used or suggested.

Senator GURNEY. Well, are you saying that Barker was \$500 a month then?

Mr. ULASEWICZ. No, it totaled \$15,000, it was a request for Barker was \$2,000, Sturgis, Gonzales, \$2,000.

Senator GURNEY. Wait a minute, you said \$6,000 for Barker a moment ago.

Mr. ULASEWICZ. For Barker, yes, sir.

Senator GURNEY. Now, it is \$2,000.

Mr. ULASEWICZ. No, it is \$6,000 for Barker.

Senator GURNEY. Yes.

Mr. ULASEWICZ. It is \$4,000 for Sturgis.

Senator GURNEY. All right. Go on.

Mr. ULASEWICZ. \$2,000 each for Gonzales and Martinez.

Senator GURNEY. Now, these were living expenses over what period of time?

Mr. ULASEWICZ. Over a 5-month period.

Senator GURNEY. All right.

Why 5 months?

Mr. ULASEWICZ. In the conversation she spoke of a rounded out figure and she brought up the multiple of 5.

Senator GURNEY. In other words, she—

Mr. ULASEWICZ. She asked for a 5-month—would it be considered living expenses over a 5-month period?

Senator GURNEY. I see. Was this in the first conversation?

Mr. ULASEWICZ. I don't think all of it might have been in the first conversation but it would be relative to the following conversation, because the way the money was delivered we couldn't meet these requests. There just wasn't that much money.

Senator GURNEY. May I inquire what you are looking at there at the table?

Mr. ULASEWICZ. I am looking at a sheet I wrote after I had testified as a reminder. When I first testified I had the principal figures in mind. What I started with, when I memorized this thing and I mentioned that I started with the top figures of \$219,000. Then I started with the four that were delivered to me which came to \$419 and then—\$219, then I got into the delivery amounts, the four delivery amounts so that I would retain that in my memory.

Senator GURNEY. This was a sheet you made for your first witness interview?

Mr. ULASEWICZ. No, it was made after my appearances, even after the last appearance here.

Senator GURNEY. I see.

Did you ever keep any notes when you had your conversations with any of these people?

Mr. ULASEWICZ. No, sir.

Senator GURNEY. No notes at all?

Mr. ULASEWICZ. No, sir.

Senator GURNEY. Never.

Well now, let's go on; we have so far the living expenses for these people, what about Hunt's and Liddy now, did he have any living expenses, or McCord?

Mr. ULASEWICZ. Yes, Mrs. — they were, that is the \$15,000 arrangement was McCord, Liddy, and Hunt.

Senator GURNEY. Well, I understood that you said that that was for Mrs. Liddy and Mrs. Hunt?

Mr. ULASEWICZ. No, Mrs. Liddy was for the loss of her job, that she associated a loss and that was about \$15,000 a year.

Senator GURNEY. For her?

Mr. ULASEWICZ. For her.

Senator GURNEY. All right. That is the figure I have here.

Mr. ULASEWICZ. For the schoolteacher was about, Mrs. Liddy was about, 10, plus Hunt 15 that was her request.

Senator GURNEY. Well now, wait a minute, you just said Mrs. Liddy \$15,000, now you say 10.

Mr. ULASEWICZ. No. Mrs. Hunt requested a \$15,000 figure.

Senator GURNEY. All right.

Mr. ULASEWICZ. Mrs. Liddy a \$10,000 figure.

Senator GURNEY. All right.

Now, how about Mr. Hunt? How much for him?

Mr. ULASEWICZ. Mr. Hunt was \$15,000.

Senator GURNEY. These are for living expenses.

Mr. ULASEWICZ. Living expenses.

Senator GURNEY. How about Liddy?

Mr. ULASEWICZ. \$15,000.



Senator GURNEY. How about McCord?

Mr. ULASEWICZ. \$15,000.

Senator GURNEY. Now, how about the attorneys' fees?

Mr. ULASEWICZ. For Hunt \$25,000.

Senator GURNEY. All right.

Mr. ULASEWICZ. For McCord \$25,000, for Liddy \$25,000, Barker's attorney \$25,000, and the three others \$30,000.

Senator GURNEY. Together?

Mr. ULASEWICZ. Together, \$10,000 each.

Senator GURNEY. When did she mention these figures? Did she mention all of this the first time she talked to you?

Mr. ULASEWICZ. No, sir.

Senator GURNEY. When did she mention this, over what period of time, and in how many conversations?

Mr. ULASEWICZ. In about four or five conversations from June—from July to August, in about a 6-week period when these drops were made off.

Senator GURNEY. Can you give us any idea of the escalation of these demands, what she asked the first time, second time, third time, and so on?

Mr. ULASEWICZ. Well, they increased each time I called, she would increase the amount or request that more money would be needed for one reason or another.

Senator GURNEY. Can you give us——

Mr. ULASEWICZ. When she started in initially—when she gave—and I cut her off because of saying I am not in position to negotiate, and so forth, she would repeat the demands each time. Some of them were repeated, and our problem was that we couldn't break it when we delivered the money so the best that Mr. Kalmbach and whomever he was speaking with said deliver 40 and I guess it was to raise more and deliver the other and when the second delivery was made there were no directions as to how she was to use the money, it was simply given to her to use, to satisfy because she could not pay all these amounts with the little—with the amounts she was getting.

Senator GURNEY. Did she ever mention any flat figure at any time for the overall affair?

Mr. ULASEWICZ. No, sir.

Senator GURNEY. Only bits and pieces from time to time?

Mr. ULASEWICZ. That is correct, sir.

Senator GURNEY. All right.

Now then, I would like to go to the instructions as to what you told her what to do with each amount of money you gave her. Will you please describe that in detail to the committee, let's go to the first one?

Mr. ULASEWICZ. The \$40,000?

Senator GURNEY. Yes; is that the first amount you gave her?

Mr. ULASEWICZ. Yes; and when she received the money.

Senator GURNEY. The first drop to her was \$40,000?

Mr. ULASEWICZ. Yes, sir.

Senator GURNEY. All right.

Mr. ULASEWICZ. With the drops there were no discussions from me to her as to how to spend it, how to dole it out because my instructions from Mr. Kalmbach had reached a point that what she was asking for was not in my possession.

Senator GURNEY. What about on the very first drop did you tell her what to do with the money, the \$40,000?

Mr. ULASEWICZ. The first drop I believe was said to spread it out for the needs of the families, to use the money first for the needs of the families. And the other request for attorneys, et cetera—

Senator GURNEY. Did you tell her how to break it down at all or just say this is for the families?

Mr. ULASEWICZ. That is correct. I relayed whatever instructions I had received.

Senator GURNEY. Did she say anything to that in reply?

Mr. ULASEWICZ. Well, she was not satisfied. She said that there will be problems and she will do her best and I said "Well, I understand. I will be getting back to you."

Senator GURNEY. Did she mention the fact "The sum is too small and we need more," and give you any figure?

Mr. ULASEWICZ. No; she would continue or reiterate what she had been giving me, you know the lawyers' fees, and so forth.

Senator GURNEY. All right. How about the second drop of \$43,000, what did you tell her to do with that money?

Mr. ULASEWICZ. I believe that one she had already been told probably she will get the money and she will distribute it in whatever manner it comes to her.

Senator GURNEY. You gave her no instructions?

Mr. ULASEWICZ. No instructions.

Senator GURNEY. What about the next drop of \$18,000?

Mr. ULASEWICZ. I don't believe any instructions with that.

Senator GURNEY. And the last drop of \$53,500?

Mr. ULASEWICZ. There were none in that one.

Senator GURNEY. In other words, the only thing you can recall then is a discussion or an instruction on the first drop to use this money for the families?

Mr. ULASEWICZ. Yes, sir, to the best of my recollection.

Senator GURNEY. Again, I would like to get back to this under-the-table business, \$10,000 to Barker. You discussed it with Senator Inouye. What did she say to you when she described this and what it was to be used for?

Mr. ULASEWICZ. She said that in addition to the other demands there were \$10,000 necessary to give to Barker for use under the table. That was in the early conversation. I recall that when it came back from Mr. Kalmbach to—

Senator GURNEY. Now when this occurred did you say "Now, hold on here, Mrs. Hunt, what's this under the table business"?

Mr. ULASEWICZ. I had asked "Can you be more specific?" or something to that effect and she says, "Well, I think if you relay it that way, it will be understood," and it was not understood because I remember in a subsequent conversation asking her, and I had been asked by Mr. Kalmbach what the under the table and she either—the second or third somewhere along the line, she insinuated it was for some other persons who were involved in the situation or may have been involving somebody back in Florida.

Senator GURNEY. There was no further discussion as to what under the table was for?

Mr. ULASEWICZ. No; I was told not to discuss it any further.

Senator GURNEY. You never asked her what she was going to do with it?

Mr. ULASEWICZ. No, sir.

Senator GURNEY. This \$25,000 to Mr. Bittman, as I recall, that was the only payment you made to any of the attorneys directly, is that correct?

Mr. ULASEWICZ. That is correct, sir.

Senator GURNEY. Well now, this is a rather unique way of paying attorneys' fee, is it not?

Mr. ULASEWICZ. Yes, sir; it is a way.

Senator GURNEY. Did Mr. Bittman express any surprise at this method of getting his fee?

Mr. ULASEWICZ. Oh, yes, in the initial conversation he probably said something that it was unusual, and I said "Well, however, those are my instructions" and then I made a call and relayed his message and I was told "No, it will be accepted." When I called back, Mr. Bittman agreed to take it.

Senator GURNEY. Would you go into that a little further, the discussion about how his figure came up and how this attorney fees was going to be paid?

Mr. ULASEWICZ. Well, when I spoke to Mr. Bittman he told me that it was the first conversation, that it was an unusual manner to discuss lawyers' fees, that you don't know about how much expenses will be entailed, and he started to go into appeals could come in, and I said "Well, I have no knowledge of this, I am told that you would have a figure and I am prepared to deliver that figure." I was thinking in terms of the \$75,100 which I brought with me.

Senator GURNEY. What did he say to that when you asked him or said to him, "I was told you were going to name a figure."

Mr. ULASEWICZ. He said "Well," he said, "No, let me," something to the effect, "Let me get back or get back to me," and I relayed the message to Mr. Kalmbach, and after a period of time——

Senator GURNEY. He said "Get back to him later."

Mr. ULASEWICZ. Yes; he said to discuss it or he indicated something that he was not taking it at that time. He was not going to accept the money in that manner at that time.

Senator GURNEY. He did name a figure of \$25,000?

Mr. ULASEWICZ. Finally he named a \$25,000 figure in the next to the last conversation.

Senator GURNEY. Why didn't he want to get into the business of taking it or arranging for the taking it at that time. He was perfectly willing to negotiate the fee with you, is that correct?

Mr. ULASEWICZ. He did not negotiate with me and I think that is the answer to the first question, he had to go back and negotiate a fee with either his client or somebody else, and then he seemed, then he gave me the figure. I think he negotiated with his client or——

Senator GURNEY. Well, you say he negotiated with his client and gave you the figure you mean in another phone conversation?

Mr. ULASEWICZ. In whatever manner they were dealing with his client, I don't know.

Senator GURNEY. Let's go back here, you called him on the phone?

Mr. ULASEWICZ. Yes, sir.

Senator GURNEY. And the purpose of your calling him on the phone was to find out what he wanted for a fee, isn't that right?

Mr. ULASEWICZ. That is correct. But it wasn't—yes, it was the cost of a script, of course, which was a subterfuge and he didn't come up with a number at all. He didn't come up with a figure, I so reported to Mr. Kalmbach. Mr. Kalmbach says all right I will get back to you, he got back and he says call him again. This might be a day or it might be an hour, I don't recall which. I call Mr. Bittman back, and he would start in that conversation with, "Well, you know, a flat fee is very unusual thing and all" and I said "Well, I have no control over that, I am prepared for a figure, for a figure, for the cost of a script." And I would repeat the whole thing and he says "Well," he says "Can you get back to me?" I says "All right" and I reported that to Mr. Kalmbach.

Senator GURNEY. That is the second conversation?

Mr. ULASEWICZ. Second conversation. I think I had four conversations or five with Mr. Bittman, and then finally he mentioned that he would accept the money and he gave me the figure of \$25,000.

Senator GURNEY. Finally on the fourth conversation he mentioned a figure?

Mr. ULASEWICZ. That is correct, sir.

Senator GURNEY. And he hadn't mentioned any figure before that?

Mr. ULASEWICZ. No, sir.

Senator GURNEY. All this other business is horsing around?

Mr. ULASEWICZ. Yes, sir.

Senator GURNEY. Why?

Mr. ULASEWICZ. I think he had to straighten it out with his client or with somebody is the only thing I can assume.

Senator GURNEY. All right, now we arrive at a figure of \$25,000. Then what happened?

Mr. ULASEWICZ. I placed the \$25,000 in an envelope.

Senator GURNEY. Well, hold off now.

Mr. ULASEWICZ. I reported to Kalmbach, I reported the figure to Kalmbach. My instructions were I never was to give anything until finally I reported and got the OK from Mr. Kalmbach. I reported to Mr. Kalmbach and he got back to me and said "OK, deliver the money."

Senator GURNEY. Incidentally, in these phone calls with Mr. Kalmbach, while you were—I will not use the word—negotiating—talking to Mr. Bittman on the phone, what was his reaction about all this time spent in phone conversations with Bittman?

Mr. ULASEWICZ. No particular reaction. I think it was agreeable to him, or he was trying to make his mind up as to what kind of a fee.

Senator GURNEY. Was he calling anybody about this, do you know?

Mr. ULASEWICZ. Oh, I assume he was, yes, sir.

Senator GURNEY. Did he tell you?

Mr. ULASEWICZ. No, sir.

Senator GURNEY. Now we get to how it is going to be paid. Would you describe that?

Mr. ULASEWICZ. Yes; the manner of payment was I would place \$25,000 in a brown clasp envelope.

Senator GURNEY. I know that. Now let us go back to catching that. You arrive at a figure and that big hurdle is over. You must have told Mr. Bittman something about how you were going to make this contact.

Mr. ULASEWICZ. I told him I would get back to him, because I had

to call Mr. Kalmbach and tell him the figure was \$25,000. And Mr. Kalmbach said, "I will get back to you." And when he got back to me, he said "Go ahead and deliver the money."

Senator GURNEY. Now go on.

Mr. ULASEWICZ. I called Mr. Bittman. He was in his office. And I said that I am all set now to have this, I have the money ready for him and I outlined the procedure and I told him it would be on the shelf. And he came down on the elevator or a person came down—

Senator GURNEY. I heard that. We do not want to waste the time to go into that again. What I am interested in is how you described to him how you were going to pay this fee. What did he say?

Mr. ULASEWICZ. He did not say anything.

Senator GURNEY. He did not say anything?

Mr. ULASEWICZ. No, sir. He said, OK.

Senator GURNEY. Do you think he expected this in a brown envelope in a phone booth?

Mr. ULASEWICZ. I do not know. He probably knew that it would be delivered in cash to him in some manner, with whatever negotiations they were having.

Senator GURNEY. He did not say, come to my office and pay me the fee, or anything like that?

Mr. ULASEWICZ. No, sir.

Senator GURNEY. When you suggested it would be paid this way, there was no evidence of any surprise at all?

Mr. ULASEWICZ. No, sir, it was on the telephone. I did not get any—oh, I am reminded. He did call me the next day. I received a call from Mr. Kalmbach the next day to call Mr. Bittman and I called Mr. Bittman and he said he would like to return the money.

Senator GURNEY. Oh? Well, tell us about that.

Mr. ULASEWICZ. I called Mr. Kalmbach and mentioned that to him. He said, "I will get back to you."

He called me back and said, "Call Mr. Bittman again."

I called Mr. Bittman back and he said that is of no consequence now, because it went into a night depository.

Senator GURNEY. So it was no longer retrievable?

Mr. ULASEWICZ. No longer retrievable.

Senator GURNEY. Let us go into that again. Who told you he wanted to return the money?

Mr. ULASEWICZ. Mr. Bittman, after he had taken the \$25,000 and Mr. Kalmbach asked me to call Mr. Bittman back the next day.

Senator GURNEY. The next day?

Mr. ULASEWICZ. Yes, sir.

Senator GURNEY. Describe this conversation again.

Mr. ULASEWICZ. I called Mr. Bittman back and he said he was considering, he would like to return the money.

Senator GURNEY. Why? Did he mention any money?

Mr. ULASEWICZ. He did not.

Senator GURNEY. Did you ask him?

Mr. ULASEWICZ. No; I was a little surprised at it and I said, "Let me check into it." And I did not make any indication that I was going to take the money back, either. And I called Mr. Kalmbach.

Senator GURNEY. You mean the substance of this conversation was you called him and he said, "I want to return this money"?

Mr. ULASEWICZ. He said I would like to return the money or words to that effect, after speaking to his other attorney, or something, I do not recall, but he would like to return the money.

Senator GURNEY. Did he talk to his law partners about it?

Mr. ULASEWICZ. He may have. I am not certain.

Senator GURNEY. You said, "Hold on, I have got to get instructions," is that it?

Mr. ULASEWICZ. Yes, sir.

Senator GURNEY. And that was the end of the conversation?

Mr. ULASEWICZ. That was it.

Senator GURNEY. How long did this conversation take?

Mr. ULASEWICZ. Very short period of time.

Senator GURNEY. And neither one of you expressed surprise?

Mr. ULASEWICZ. Well, I did. I was quite surprised.

Senator GURNEY. What did you say?

Mr. ULASEWICZ. I said, "Well, I do not understand," or something of that type. I said, "I will have to get further instructions."

Senator GURNEY. Well, go on, now.

Mr. ULASEWICZ. And I called Mr. Kalmbach and reported the conversation to him. When he got back to me, it was to call Mr. Bittman again and I did. At this point, Mr. Bittman said, "Well, it is OK," he said. He said, "There is no question here now, there is no problem, the money was deposited in a night box."

Senator GURNEY. Well, now, this phone conversation when you got back to him, after you talked to Mr. Kalmbach, how long was that after your previous phone conversation?

Mr. ULASEWICZ. I would say a few hours.

Senator GURNEY. Just a few hours?

Mr. ULASEWICZ. I would say so.

Senator GURNEY. Well, now, I must say that does not make much sense. He calls you, tells you he wants to return the \$25,000. A few hours later, you call him back, and he says, there is no problem, it is in a night box.

Mr. ULASEWICZ. No; he said that the money had been deposited into a night depository so that returning the money was no—and that he was going to—infering that he was going to handle this with his client.

Senator GURNEY. What time of day did these calls occur?

Mr. ULASEWICZ. In the afternoon.

Senator GURNEY. Both calls?

Mr. ULASEWICZ. No; the day that the—yes; both calls would have been in the afternoon. The second call might have been in the morning.

Senator GURNEY. The second call?

Mr. ULASEWICZ. The one in which he wants to return the money.

Senator GURNEY. Might have been in the morning?

Mr. ULASEWICZ. Yes, sir.

Senator GURNEY. And then the call that he said, "No, don't bother, it is in the night box," occurred in the afternoon?

Mr. ULASEWICZ. Yes.

Senator GURNEY. Did you ask him anything further, what changed his mind?

Mr. ULASEWICZ. No, sir.

Senator GURNEY. Did you express surprise to him at this change of courses?

Mr. ULASEWICZ. I think so. I think I showed some surprise. I said, "I will have to get instructions."

Senator GURNEY. A couple of quick questions here.

You mentioned Mr. Hunt made one pickup. That was the only one, was it not?

Mr. ULASEWICZ. Yes, sir.

Senator GURNEY. How did you know who he was?

Mr. ULASEWICZ. I didn't.

Senator GURNEY. Go on.

Mr. ULASEWICZ. I did not.

Senator GURNEY. How did you know Mr. Hunt was picking up the money?

Mr. ULASEWICZ. Well, his wife told me that because of some personal problem that day—this was the second or third pickup—that she wouldn't make it, that her husband would make the pickup.

I said, "You will explain all the details to him?" She said, "Oh, he will do exactly like all the instructions as I have been doing."

He came in, looked at the clock and proceeded perfectly.

Senator GURNEY. Did you have any other question in your mind other than knowing where he would go?

Mr. ULASEWICZ. No; that satisfied me.

Senator GURNEY. What about Mr. Liddy? You made one payment to him. Did you know who he was?

Mr. ULASEWICZ. Yes, I knew he was one of the defendants. His name came up—

Senator GURNEY. How did you recognize him as the man—

Mr. ULASEWICZ. He said he was going to come in in a shirt, with rolled up sleeves, and he was going to obey instructions.

Senator GURNEY. I am curious about one thing here. You mentioned that Caulfield was one of those Washington holes in the sieve, I guess. What does that mean?

Mr. ULASEWICZ. Well, the thing in this was that everything be kept strictly confidential. Of course, I had agreed with Mr. Kalmbach that it would be so and I would tell no one. When put to the question here, I didn't give it to Mr. Caulfield or anyone else.

Senator GURNEY. I mean what is the hole in the sieve?

Mr. ULASEWICZ. There are many leaks and very few secrets in Washington.

Senator GURNEY. Wasn't he a pretty good friend of yours?

Mr. ULASEWICZ. He sure was.

Senator GURNEY. Did you think he was like all the other Washingtonians?

Mr. ULASEWICZ. Oh, yes, sir.

Senator GURNEY. It is sort of a disease once you get here, is that it?

Mr. ULASEWICZ. I think once you are caught here, you are caught, and there ain't no way out.

Senator GURNEY. How about you? Did you get contaminated in Washington?

Mr. ULASEWICZ. Including you.

Oh, no, sir, I think I am not contaminated in any way, because anything I did, I went into it seeking to do it, I went into it with my eyes wide open, and I think I did a good job.

Senator GURNEY. Well, just one final question. When did you begin getting suspicious about this train of events that you were caught up in?

Mr. ULASEWICZ. I would say on the second call to Mrs. Hunt.

Senator GURNEY. Why?

Mr. ULASEWICZ. Because of demands, the continuing raising of money. Where the first conversation was one of, not of a demand when she first started, a request, then it began to change in shape, when are we going to do this? And now, where we started with \$75,100 to go to a person, face to face, now the whole system changes, we are in this way of distribution of the money, plus newspaper publicity, et cetera. But basically, in this particular matter, the manner in which she was increasing everything and it became obvious that it was a much larger thing than the original request.

I had agreed to a \$75,100 distribution with Mr. Kalmbach and he had probably—and I am sure, was of the same mind. Now, we are something, with two calls, somewhere into \$400,000 and we still can't figure it out.

Senator GURNEY. Did you ever discuss that with her, why these demands were always increasing, to you at least, always excessive?

Mr. ULASEWICZ. No, sir.

Senator GURNEY. That is all.

Thank you, Mr. Chairman.

Senator ERVIN. Senator Talmadge.

Senator TALMADGE. Mr. Ulasewicz, are you still on the payroll?

Mr. ULASEWICZ. No, sir.

Senator TALMADGE. When did your association with Mr. Kalmbach cease?

Mr. ULASEWICZ. The end of 1972.

Senator TALMADGE. The end of 1972?

Mr. ULASEWICZ. Yes, sir.

Senator TALMADGE. What are you doing now, retired?

Mr. ULASEWICZ. Semiretired.

Senator TALMADGE. Living in the city of New York?

Mr. ULASEWICZ. Living in the town of Day in Saratoga County, New York State.

Senator TALMADGE. Are you working at present?

Mr. ULASEWICZ. No, sir.

Senator TALMADGE. Now, when you got suspicious that this distribution of money ceased to be a humanitarian effort and became a blackmail program, why didn't you withdraw from it at that time?

Mr. ULASEWICZ. At the earliest opportunity, I withdrew. I told Mr. Kalmbach.

Senator TALMADGE. I thought you made some three drops thereafter, did you not?

Mr. ULASEWICZ. No; one drop.

Senator TALMADGE. When did they start haggling about money and saying that was not enough?

Mr. ULASEWICZ. I would say the second or third predrop to Mrs. Hunt is when she started raising it and began more of a demanding fashion. And I so reported my opinion to Mr. Kalmbach.

Senator TALMADGE. You made either one or two more drops thereafter?



Mr. ULASEWICZ. Yes, sir.

Senator TALMADGE. And then you retired from the field?

Mr. ULASEWICZ. Yes, sir.

Senator TALMADGE. You thought perhaps at that point that you had been used by friends, I take it, didn't you?

Mr. ULASEWICZ. Well, I don't think friends would want to use me, but the situation was such that I was picking up a lot of friends after this Watergate thing happened and it was worse.

Senator TALMADGE. You felt you had been used, I take it?

Mr. ULASEWICZ. All right, sir.

Senator TALMADGE. Is that an affirmative answer?

Mr. ULASEWICZ. Yes, sir.

Senator TALMADGE. You never made any determination as to the amount of money that would be paid to these individuals personally; you were courier and deliverer, and that is all?

Mr. ULASEWICZ. Yes, sir.

Senator TALMADGE. Who made the determination as to the specific amount that would be paid?

Mr. ULASEWICZ. No, sir.

Senator TALMADGE. Who did?

Mr. ULASEWICZ. Oh, who did?

Senator TALMADGE. Yes.

Mr. ULASEWICZ. I don't know, sir.

Senator TALMADGE. You were never informed about that fact?

Mr. ULASEWICZ. No, sir.

Senator TALMADGE. Did you have any dealings with anyone else except Mr. Kalmbach in delivering this money?

Mr. ULASEWICZ. No, sir.

Senator TALMADGE. No conversations of any kind with anybody?

Mr. ULASEWICZ. No, sir.

Senator TALMADGE. You don't know where Mr. Kalmbach got his authority to make the delivery?

Mr. ULASEWICZ. No, sir.

Senator TALMADGE. Did you have any assumptions as to where it was coming from?

Mr. ULASEWICZ. Yes.

Senator TALMADGE. Who did you think?

Mr. ULASEWICZ. I believed that they were from somebody in a position that would be equal or higher to Mr. Kalmbach.

Senator TALMADGE. Who did you think that individual was?

Mr. ULASEWICZ. I guess I assumed it would be someone like Ehrlichman or Haldeman.

Senator TALMADGE. You thought they were higher?

Mr. ULASEWICZ. Yes.

Senator TALMADGE. And made the arrangements and saw that Mr. Kalmbach carried out their orders and instructions; is that correct?

Mr. ULASEWICZ. All right, sir.

Senator TALMADGE. Now, I believe when the plane crashed and unfortunately killed Mrs. Hunt, there was a considerable sum of money on her person at that time, was there not?

Mr. ULASEWICZ. I read in the papers, \$10,000.

Senator TALMADGE. You don't have any idea what that particular sum was for?

Mr. ULASEWICZ. No, sir.

Senator TALMADGE. Whether or not she was delivering it or whether it was her own personal funds that you had previously delivered to her?

Mr. ULASEWICZ. I have no knowledge of that \$10,000.

Senator TALMADGE. Thank you.

Mr. Chairman, I have no further questions.

Senator ERVIN. Senator Baker.

Senator BAKER. Mr. Chairman, thank you very much.

Mr. Ulasewicz, I can't resist saying that you provided us all with at least a half dozen titles for books and novels.

Mr. ULASEWICZ. That was not my intent.

Senator BAKER. The Ulasewicz caper—

Mr. ULASEWICZ. I will pay for it, that is for sure. The newspapers will have a ball with this one.

Senator BAKER. Who thought you up? [Laughter.] I mean who— [Laughter.]

Mr. ULASEWICZ. I don't know, but maybe my parents.

Senator BAKER. I am not sure I will impute the element of intent to them.

What I mean is who first employed you? Where did the first contact come from? Was it from Kalmbach or was it from Dean, or was it from someone else in the CRP or the White House group?

Mr. ULASEWICZ. It would be Mr. Caulfield.

Senator BAKER. Did you ever do any work for Caulfield?

Mr. ULASEWICZ. Before taking the assignment?

Senator BAKER. At any time?

Mr. ULASEWICZ. No—oh, yes, after I—I received my assignments from Mr. Caulfield.

Senator BAKER. Not this one, though?

Mr. ULASEWICZ. No, sir.

Senator BAKER. Had you ever worked for Mr. Kalmbach before?

Mr. ULASEWICZ. I had no other assignments with Mr. Kalmbach.

Senator BAKER. Did you ever work with Mr. Ehrlichman?

Mr. ULASEWICZ. I had no assignments with Mr. Ehrlichman.

Senator BAKER. Mr. Haldeman?

Mr. ULASEWICZ. No, sir.

Senator BAKER. Anybody else at the White House or the CRP?

Mr. ULASEWICZ. The only one in the White House who relayed or gave me an assignment was Mr. Caulfield.

Senator BAKER. I am not talking now just about the Watergate. I am talking about anything else.

Mr. ULASEWICZ. Anything.

Senator BAKER. No other duties, no other intelligence activities or investigative work of any type?

Mr. ULASEWICZ. The only one that assigned the work to me, if I understand your question, Senator, was Mr. Caulfield.

Senator BAKER. I hope I am not unnecessarily redundant. You are telling me that you never received any instructions on Watergate or anything else from Mr. Ehrlichman, Mr. Haldeman, Mr. Dean, Mr. Kalmbach, except what you have described?

Mr. ULASEWICZ. Correct, sir.

Senator BAKER. Did you ever conduct any investigative work for the White House or for the CRP at some time other than this Watergate situation?

Mr. ULASEWICZ. No, sir.

There were a series of investigations, Senator, that I was assigned, given the assignment by Mr. Caulfield. From whom he received the assignments back of him, I have no knowledge, or to whom he reported the results to, I have no knowledge.

Senator BAKER. What I am trying to determine now is whether anyone else, other than Mr. Caulfield, gave you instructions or gave you advice or suggested scope of other inquiries other than the Watergate affair?

Mr. ULASEWICZ. The best of my recollection is, no, sir.

Senator BAKER. But there were other inquiries or investigations?

Mr. ULASEWICZ. Yes, sir.

Senator BAKER. Mr. Caulfield gave you instructions in that respect?

Mr. ULASEWICZ. Yes, sir.

Senator BAKER. Did you ever know McCord before this happened?

Mr. ULASEWICZ. No, sir.

Senator BAKER. Did you ever know Liddy before it happened?

Mr. ULASEWICZ. No, sir, before the Watergate—oh, I met him once under a different name for a few minutes, yes sir, [laughter] I did.

Senator BAKER. McCord?

Mr. ULASEWICZ. Not McCord.

Senator BAKER. Liddy?

Mr. ULASEWICZ. Liddy.

Senator BAKER. What other name?

Mr. ULASEWICZ. Mr. George. He was introduced to me as Mr. George and he took an accounting as a finance—I recall he was finance in the committee, the Committee To Re-Elect, I guess it would be. Then he checked my list of expenses.

Senator BAKER. Where was this done?

Mr. ULASEWICZ. This was done in New York City in an apartment which I had rented to establish an agency of my own, a private detective agency.

Senator BAKER. And he identified himself as Mr. George?

Mr. ULASEWICZ. Mr. George.

Senator BAKER. Did he then hold the position of general counsel with the Committee To Re-Elect the President, do you know or have you since learned?

Mr. ULASEWICZ. I do not know. I was told he was a counsel in the finance division of that agency.

Senator BAKER. Do you have any idea why he introduced himself as Mr. George instead of Mr. Liddy?

Mr. ULASEWICZ. I have no idea.

Senator BAKER. Do you know who was responsible for your being hired?

Mr. ULASEWICZ. Who was responsible?

Senator BAKER. Yes; I am really referring you back, Mr. Ulasewicz, to your previous testimony.

Mr. ULASEWICZ. Mr. Caulfield, right. And then I had a conversation with Mr. Ehrlichman and a conversation with Mr. Kalmbach.

Senator BAKER. According to my—I have a copy of the transcript of your previous testimony, page 702, which we will supply you. It indicates that it was your thought that it was Mr. Ehrlichman who was originally responsible for your being hired?

Mr. ULASEWICZ. Yes; he interviewed me for the position; right. But the original contact for me to take this assignment came from Mr. Caulfield. Mr. Caulfield was not in a position to hire me or pay my salary.

Subsequently, a meeting was arranged where I would be interviewed about the job by Mr. Ehrlichman.

Senator BAKER. And that in fact happened?

Mr. ULASEWICZ. That happened. And following that, the acceptance of me, I was interviewed by Mr. Kalmbach in order to set up my pay, and so forth.

Senator BAKER. Did Ehrlichman describe to you the type of your probable assignments if you were in fact hired?

Mr. ULASEWICZ. There was only, the conversation included, regarding my work, confidential investigations that might come from time to time of any type and that it was on a trial basis to see how it would work out.

Senator BAKER. Surely he described to you what he meant by confidential investigations?

Mr. ULASEWICZ. Yes, sir. He mentioned that there would be some, some would be political figures of Republican or any other party, Democratic Party. There would be backgrounds on persons who may be, or want to become visitors to, persons who may be sought for appointment to jobs, positions within the Government, types of investigations that they might not want a public, say an agent or a bureau or the Secret Service or somebody of that type, because a record would be made and they may have a background on such a person. And I would say that is about the general theme of that conversation.

Senator BAKER. That is a great deal. You have told us everything except—

Mr. ULASEWICZ. We, he did not actually go into all that, but that is what it meant to me.

Senator BAKER. Did he name names of people he wanted to look into or investigate or—

Mr. ULASEWICZ. No, sir.

Senator BAKER. Did you later undertake such investigations?

Mr. ULASEWICZ. Yes, sir.

Senator BAKER. Can you tell us of whom and about what?

Let me say this, Mr. Chairman. It is my understanding that Mr. Ulasewicz will once again return for further testimony in another category of testimony.

Mr. ULASEWICZ. That is correct.

Senator BAKER. So we will abbreviate this inquiry at this point, with the full understanding that we can pursue that aspect of it later.

But back on the matter of who hired you and for what purpose. It is your clear understanding that Mr. Ehrlichman was the one who finally passed on your appointment?

Mr. ULASEWICZ. Correct, sir.

Senator BAKER. Was it also your impression that Mr. Ehrlichman was the one who set and directed your assignment responsibilities and that Mr. Caulfield simply carried out those instructions, or that Mr. Caulfield chose your assignments and responsibility?

Mr. ULASEWICZ. I would say both, that Mr. Ehrlichman would give some assignments, and possibly other people in the White House, to Mr. Caulfield and probably to me.

Senator BAKER. Do you know where Mr. Caulfield worked?

Mr. ULASEWICZ. He worked at—I think they call it the Executive Office Building and the White House.

Senator BAKER. I mean, who he worked for in the chain of command. Did he work for Mr. Dean?

Mr. ULASEWICZ. I became familiar over a period of time that one of his superiors was Mr. Dean.

Senator BAKER. But Ehrlichman was the final authority on your appointment?

Mr. ULASEWICZ. Yes, sir.

Senator BAKER. He described to you in a general way your responsibilities?

Mr. ULASEWICZ. Yes, sir.

Senator BAKER. Both Ehrlichman and Caulfield gave you assignments from time to time. You are under the impression that Ehrlichman was the final authority in that respect and you went forward with those projects?

Mr. ULASEWICZ. Yes, sir, except that Mr. Ehrlichman never gave me an assignment personally.

Senator BAKER. Did you gain knowledge of certain assignments that were initiated by Mr. Ehrlichman? Did Mr. Caulfield tell you about it, for instance?

Mr. ULASEWICZ. No; he never related to me from whom the assignments came in the White House.

Senator BAKER. Mr. Chairman, that is all I have at this time.

Senator WEICKER. Mr. Chairman, I would like, if I might, to address a comment to the Senator from Tennessee in order that we understand each other on a matter which he raised with the witness.

I wish, if he intends or if he intended, that he would pursue his line of questioning. because if he does not pursue his line of questioning, I intend to pursue his line of questioning. I think I ought to make that known to the Senator.

Senator BAKER. Mr. Chairman, I know exactly what Senator Weicker is talking about, and I certainly have no objection to any member of the committee pursuing that line of questioning at this time. We have tried, and this is what I had in mind when I made the remark that I did, in these hearings, with only moderate success, to compartmentalize the areas of inquiry, into the so-called Watergate, the so-called coverup, the money, et cetera. We are getting into another area of inquiry and I planned to postpone that until a later time. I have a rather extensive outline here. I planned to defer that until we call Mr. Ulasewicz back.

I have no objection if you wish to pursue it at this time. I will be glad to give you my memo.

Senator WEICKER. I only say this to the Senator from Tennessee in that I think it is very much within this category to show that the

actions taken by Mr. Ulasewicz in the case of the payoff was not a particularly unusual activity at all in relations to other assignments which he was given.

I am aware that the Senator from Tennessee has done considerable background work, as has the committee, on this, and I didn't want in any way to have you stop, if you will, and then go ahead when it came my turn to pick up the ball and run with it, because that is exactly what I intend to do and I wish you would pursue the line of questioning that you started.

Senator BAKER. My distinguished chairman whispered in my ear, if we don't get on with this hearing, we'll still be here when the last trembling tones of Gabriel's trumpet fades into ultimate silence.

Senator ERVIN. The Chair will not undertake to control any Senator. The Chair will express the sincere hope that we will confine our interrogation of Mr. Ulasewicz at this time to the phase of involvement in the break-in and the alleged coverup of the Watergate burglary.

The witness is a most intriguing witness and the temptation to interrogate him is very strong, I am going to resist succumbing to the temptation however, because I think he has been fully interrogated as to the matters relating to the distribution of this money and I know that the committee has some other witnesses it needs to interrogate and who are awaiting interrogation.

Senator Montoya.

Senator MONTOKA. Mr. Chairman, I only have two or three questions and I will not pursue the line of questioning which has been the subject of the dialog here.

I do want to say, or ask, Mr. Ulasewicz, again, I want to ask you at what point did you feel seriously that your activity might be subject to question as to its legality or propriety?

Mr. ULASEWICZ. I would say about the time of the second dropoff, second or third dropoff to Mrs. Hunt.

Senator MONTOKA. Well, you indicated in your testimony that in your initial contacts, you had gone to Mr. Caddy and then to Mr. O'Brien for the purpose of delivering attorney fees to them and that they had turned you down.

Mr. ULASEWICZ. Yes, sir.

Senator MONTOKA. Very curtly, very abruptly. You sought instructions from Mr. K, or Mr. Kalmbach. Didn't this trigger some kind of curiosity or concern in your mind that what you were actually launching by way of an operation might be something that might be illegal when these attorneys didn't want to have anything to do with it?

Mr. ULASEWICZ. Not at that time, sir. I attributed it to a snafu amongst their communications or contacts.

Senator MONTOKA. Did you discuss any concern that you might have had with Mr. Kalmbach when these two attorneys turned you down?

Mr. ULASEWICZ. Yes, sir.

Senator MONTOKA. What did you discuss with Mr. Kalmbach?

Mr. ULASEWICZ. That the thing was not going as he had outlined it. Right from the start, now, we have a problem. But I am to make a delivery of \$75,100, apparently, to attorney or to someone. And after three or four contacts, we have no one who is willing to go along with it, and that is when the indications started.

Senator MONTROYA. Didn't the further fact that you were delivering money in cash to these attorneys, and the fact that they had turned you down, compound the triggering of possible concern on your part with respect to the nature of your activity?

Mr. ULASEWICZ. It did later on when the amount grew.

Senator MONTROYA. Then subsequent to this, when you delivered the money to Mr. Bittman and then he in turn wanted to return the money, didn't that fact also add to possible concern on your part as to the legality of your clandestine activity?

Mr. ULASEWICZ. Not the legality. I still was of a mind that what I was doing was legal, but it did indicate to me that they were in some kind of a problem in their communications of—

Senator MONTROYA. You have been a detective for a long time. Why did you not question the technique outlined to you for the delivery of this money?

Mr. ULASEWICZ. The leaving of the money in boxes?

Senator MONTROYA. Secretly and so forth.

Mr. ULASEWICZ. The method of delivery was entirely my own. That was my own choice.

Senator MONTROYA. Why did you choose this method?

Mr. ULASEWICZ. Because Mr. Kalmbach had requested that I do this with utmost confidence, without involving anyone, and this was after the Caddy thing.

Senator MONTROYA. Would it have been outside of the sphere of good discretion to just walk into an attorney's office and just deliver \$25,000, rather than to leave it in a telephone booth?

Mr. ULASEWICZ. Yes sir; Mr. Kalmbach was paying me and it was by his request that I was following his instructions.

Senator MONTROYA. Now, you performed other assignments for the White House?

Mr. ULASEWICZ. Yes, sir.

Senator MONTROYA. Under the direction of Mr. Caulfield?

Mr. ULASEWICZ. Yes, sir.

Senator MONTROYA. How many assignments would you say you performed during the course of 1971 for Mr. Caulfield?

Mr. ULASEWICZ. 1971?

Senator MONTROYA. Yes.

Mr. ULASEWICZ. I would guess 35, 30—I am not certain at this time. I didn't break it down in that fashion.

Senator MONTROYA. And how many assignments did you perform in the year 1972?

Mr. ULASEWICZ. Probably the same amount.

Senator MONTROYA. And who were you paid by?

Mr. ULASEWICZ. Mr. Kalmbach.

Senator MONTROYA. Why, if you were working for the White House, were you not paid by the Federal Government?

Mr. ULASEWICZ. Initially, when I took the assignment, it was my request that I work for a law firm. It was my decision to go to an attorney's firm because at the most, the job could have lasted until 1972, which it did, but there was a possibility it could have lasted a much lesser time than that.

Senator MONTROYA. And who agreed with you as to that method of payment?

Mr. ULASEWICZ. Mr. Ehrlichman and Mr. Kalmbach.

Senator MONTÓYA. And what discussions did you have with him as to the arrangement whereby you would be paid by a law firm rather than by the Government?

Mr. ULASEWICZ. I discussed with Mr. Kalmbach the method of payment, the mailing of checks, et cetera.

Senator MONTÓYA. Why did you discuss it with Mr. Kalmbach when you had previously discussed your employment with Mr. Ehrlichman and he had approved it?

Mr. ULASEWICZ. Yes, sir.

Senator MONTÓYA. Did he send you to Mr. Kalmbach?

Mr. ULASEWICZ. Yes, sir.

Senator MONTÓYA. When you went to Mr. Kalmbach, the choice was no longer there for you to suggest that Mr. Kalmbach pay you, was it?

Mr. ULASEWICZ. No, when we initially entered the negotiations with Mr. Ehrlichman, it was stated as my desire that I belong to a law firm, that I go with an attorney's firm.

Senator MONTÓYA. Didn't it sound strange to you that you were performing official functions for the Government for the White House and being paid by a private individual?

Mr. ULASEWICZ. I didn't consider myself working for the Government. As a matter of fact, it was the one thing I had wanted to avoid. I had just come from a police department, a government agency, and I wanted to go into the private sector.

Senator MONTÓYA. Weren't you performing functions for Mr. Caulfield that were official in nature and governmental in nature?

Mr. ULASEWICZ. No, I conducted confidential investigations of various types.

Senator MONTÓYA. Are you now saying to me that what you performed for Mr. Caulfield was outside of the scope of Government and not connected with any of the governmental functions of the White House?

Mr. ULASEWICZ. Would you explain the question, please, Senator? I don't understand the question.

Senator MONTÓYA. Then are you, in effect, telling me that the assignments which you conducted were not governmental in nature and not dealing with the White House?

Mr. ULASEWICZ. I don't think I understand what governmental in nature would be at this point.

Senator MONTÓYA. Well, don't you understand what the functions of government are?

Mr. ULASEWICZ. I conducted investigations relating to whatever might have been assigned to me. I don't recall in my determination of governmental functions that they had to do with official Government agencies or—

Senator MONTÓYA. Well, tell me the nature of those functions. We are not going to go into individuals, but tell me the nature of those functions.

Mr. ULASEWICZ. Background investigations of persons possibly coming into Government or being contemplated for appointment; allegation of various types of that nature that could be construed, that if someone, all persons that would write in to the White House or would write, as I understood, might communicate in some way and they wanted that person's background checked and did not want—I would get the assignment.



Senator MONTTOYA. Then, would not all those functions be official in nature, dealing with White House governmental operations?

Mr. ULASEWICZ. White House operations, yes, I believe so.

Senator MONTTOYA. Then, did this not trigger some concern or doubt in your mind as to why you were being assigned to a private payroll to perform these particular functions?

Mr. ULASEWICZ. It did not make any difference to me.

Senator MONTTOYA. Did you ever ask anyone to not put you on a Federal payroll, but to put you on a private payroll?

Mr. ULASEWICZ. Yes, sir.

Senator MONTTOYA. Who did you suggest this to?

Mr. ULASEWICZ. To Mr. Caulfield and Mr. Ehrlichman.

Senator MONTTOYA. It is very strange, very strange. Thank you, Mr. Chairman.

Senator ERVIN. The committee will stand in recess until 2 o'clock.

[Whereupon, at 12:22 p.m., the hearing was recessed, to reconvene at 2 p.m., this same day.]

#### AFTERNOON SESSION, WEDNESDAY, JULY 18, 1973

Senator ERVIN. The committee will come to order.

Senator Weicker is interrogating the witness.

Senator WEICKER. Mr. Ulasewicz, you testified this morning that as far as you are concerned you never did anything illegal, you were not a party to any illegal activities, is that correct?

Mr. ULASEWICZ. That is correct, sir.

Senator WEICKER. Now, I would like your comments on testimony which you gave on May 23. On May 23 Senator Inouye asked you the following questions and you responded in the following manner:

Senator INOUE. In this special assignment you undertook for Mr. Caulfield to serve as contact with Mr. McCord were you aware you were being an accessory to the crime of obstructing a criminal investigation?

Mr. ULASEWICZ. Yes, sir; I knew that it was wrong.

Senator INOUE. You knew you were an accessory to a crime?

Mr. ULASEWICZ. Yes, sir.

Now, would you like to comment or equate your testimony of May 23 to what you stated before this committee today?

Mr. SUTTER. Senator, excuse me, may we be furnished with a copy of that testimony, please?

Senator WEICKER. Yes, indeed. I would ask committee staff to supply Mr. Ulasewicz and his counsel with the transcript.

Mr. SUTTER. I received one page.

Mr. ULASEWICZ. At the time I took the action I did, I took the telephone call, I did not believe I was committing any crime. A friend had asked me to make a phone call, assured me, and so forth, as I testified. It is later on and subsequently when I was interrogated and so forth that the allegation was brought to me or the fact was brought to me that it might be construed as a crime.

Senator WEICKER. But that was not your testimony, Mr. Ulasewicz. Your testimony is very specific, I will repeat Senator Inouye's question.

Mr. ULASEWICZ. I understand.

Senator WEICKER [reading]:

In this special assignment you undertook from Mr. Caulfield to serve as contact with Mr. McCord were you aware you were being an accessory to a crime of obstructing a criminal investigation.

Mr. ULASEWICZ. Yes, sir; I knew—that is past tense—

that it was wrong.

Senator INOUE. You knew you were an accessory to a crime?

Mr. ULASEWICZ. Yes, sir.

Mr. ULASEWICZ. Yes; at the time I used the past tense I was speaking of finding it out or coming to believe that it might have been a wrongdoing and yet in my mind today as I sit here, I do not really consider myself of committing a crime in that sense, so I had no purpose. I was on no payroll. I had no intent of any kind.

Senator WEICKER. Would you like to use this as an occasion to change your testimony of May 23?

Mr. ULASEWICZ. Just to explain it, yes.

Senator WEICKER. Now, in addition, Mr. Ulasewicz, you have testified this morning that you wanted no further part in the activities regarding Watergate defendants once you and Mr. Kalmbach had gotten out of the payoff activity. Now, if this is so why did you proceed to contact Mr. McCord at Mr. Caulfield's request in January of 1973 and, in fact, relate to Mr. McCord the following message: "A year is a long time, no one knows how a judge will go. Your family will be provided for, rehabilitation and job opportunities will be provided for."

Mr. SUTTER. May I have the page, please?

Senator WEICKER. Again, here I would ask the committee to go ahead and supply it.

Mr. SUTTER. I have it, Senator.

Senator WEICKER. I do not have a page.

Mr. SUTTER. You do not have a page?

Senator WEICKER. Wait a minute, I beg your pardon. It would be page 697.

Mr. SUTTER. Thank you, sir.

Mr. ULASEWICZ. In connection with my answer we were speaking of Watergate and the money drops, and this entire thing that I went through in prior testimony, and I was not—at that time when I answered the question it was not in my mind connected with this telephone call.

Senator WEICKER. Would you then state before the committee then that even once you doubted the nature of your work you still continued in that work, is that correct?

Mr. ULASEWICZ. Only to the phone call, that is correct, sir.

Senator WEICKER. Now, Mr. Ulasewicz, as I indicated this morning, I intend to ask you several questions relative to the other matters that were handled by you. It is not my intention to go into specifics of each investigation but rather to try to characterize your job. First off I would like to set, if I could, your status insofar as payroll, insofar as the White House is concerned. If I am not mistaken you were paid by Mr. Kalmbach's law firm, is that correct?

Mr. ULASEWICZ. Correct, sir.

Senator WEICKER. You were paid a salary from May of 1969 to December of 1972?

Mr. ULASEWICZ. July of 1969.

Senator WEICKER. July of 1969 to December 1972, correct?

Mr. ULASEWICZ. 1972 December would be correct; yes, sir.

Senator WEICKER. You were paid \$22,000 per year, is that correct?

Mr. ULASEWICZ. That is correct. Last year was \$2,000 per month, was \$24,000 in the final year.

Senator WEICKER. And expenses, isn't that correct?

Mr. ULASEWICZ. And expenses, yes, sir.

Senator WEICKER. Could you indicate to me the amount of the expenses per year?

Mr. ULASEWICZ. Roughly about \$1,000 a month.

Senator WEICKER. Somewhere in the neighborhood of \$12,000 per year in addition to the \$22,000 salary?

Mr. ULASEWICZ. That is correct, sir.

Senator WEICKER. And this payroll was the payroll of Mr. Kalmbach's law firm?

Mr. ULASEWICZ. That is correct.

Senator WEICKER. And your instructions with the exception of the moneys that you discussed this morning relative to the defendants, the Watergate defendants, your instructions came from Mr. Caulfield?

Mr. ULASEWICZ. That is correct.

Senator WEICKER. And you knew that Mr. Caulfield was in the White House?

Mr. ULASEWICZ. Yes, sir.

Senator WEICKER. So that in effect you were paid by Mr. Kalmbach, your instructions came from the White House?

Mr. ULASEWICZ. Correct, sir.

Senator WEICKER. Now, I would like to, if I could, try to get into the general nature of the investigations, the other investigations, which you conducted. Is it a fact that these investigations or some of these investigations, were background checks on individuals intended to develop questionable facets of the personal lives of these individuals?

Mr. ULASEWICZ. That is correct, sir.

Senator WEICKER. Now, when we are talking about questionable facets, would this include sexual habits?

Mr. ULASEWICZ. These were allegations and that might be included in the category, I guess.

Senator WEICKER. That would be included in the category. Drinking habits?

Mr. ULASEWICZ. Yes, sir.

Senator WEICKER. Domestic problems?

Mr. ULASEWICZ. Yes, sir.

Senator WEICKER. Personal social activities?

Mr. ULASEWICZ. Yes, sir.

Senator WEICKER. These background checks, is there any other, let me ask you the question, is there any other, general category which you would assign to these background checks?

Mr. ULASEWICZ. Yes; there would have been backgrounds on various other individuals, corporations, organizations, and any allegations, and allegations concerning political figures.

Senator WEICKER. All right, I haven't gotten into asking you the question as to who you perform these checks on. I am just trying to get at the nature of the investigation and I think we have checked out domestic problems, their drinking habits, personal social activities, sexual habits.

Is there any other type of activity which was investigated relative to any corporation or individual?

Mr. ULASEWICZ. No; it would depend on the allegation—would depend on the degree of investigation. There wasn't a complete investigation on any one person with all those titles involved. Sometimes it was an allegation of drinking or what it might be and I might just keep my investigation to that particular category.

Senator WEICKER. Now, can we categorize in a general way those individuals or corporations that were investigated by you? Were potential political opponents of the President so investigated?

Mr. ULASEWICZ. Yes, sir.

Senator WEICKER. Were other political figures, aside from potential political opponents of the President investigated?

Mr. ULASEWICZ. Probably, yes, sir.

Senator WEICKER. And were the individuals in this category—were they entirely background checks prior to employment or was it for some other reason?

Mr. ULASEWICZ. Some would be prior to employment and some would be as a result of an allegation in a newspaper or something of that type.

Senator WEICKER. Did you ever file your investigations in a written form?

Mr. ULASEWICZ. No, sir.

Senator WEICKER. Why not?

Mr. ULASEWICZ. When I took the assignment it was set up that I would report directly and verbally. I was to keep no files.

Senator WEICKER. Did you at any time conduct any electronic surveillance on any individual, either in the form of the bug or the tap?

Mr. ULASEWICZ. No, sir.

Senator WEICKER. Were your investigations, or were these investigations intended to develop lists of contributors to political candidates?

Mr. ULASEWICZ. Yes, sir.

Senator WEICKER. Now, how would you go about this problem? You are trying to develop a list of potential political contributors. What do you investigate to develop a list?

Mr. ULASEWICZ. Well, in fact, the assignment would be given to me in a manner that, to limit the lists, for instance, to those on file here in the Senate and to get the papers that were filed concerning their contributors. I was never asked to go out and get a list right from the start, for instance, I was not asked to get a list of contributors. I might be told, go up to the Senate, go to the Senate office. I might get a list of 10 or 12 contributors, if they had such a thing. I would get the list of people who contributed.

In other instances, I might go to the State Capitol and go into the public office and ask, are these records public, are they available and they would give them to me. Sometimes they were filed by the candidate.

At times, I would go into the candidate's office and get the list, how much was contributed and peruse the matter.

Senator WEICKER. So actually, this compiling of the list was done entirely through public records?

Mr. ULASEWICZ. Yes, sir.

Senator WEICKER. Now, let us get back to the individuals you investigated. How was it possible to get into the matters of domestic problems, drinking habits, social activity and sexual activity, just from a matter of public record?

Mr. ULASEWICZ. Well, the allegation would first cause—the incident would first have had to occur when I received the investigation. If it was an allegation of, a drinking allegation, we might take, I would then develop that lead by reading what the allegation was, going into the area in the most discreet manner that I would know how, and I did so for several years. And I would develop whether it happened or not and a very high percentage of these allegations were false. But I would develop my leads by interviewing bartenders, patrons, whatever time it might take, how long—if it were a hotel, hotel employees, waiters. Those kind of people are the most talkative.

Senator WEICKER. So in these situations, the information sought was not necessarily a matter of public record?

Mr. ULASEWICZ. That is right.

Senator WEICKER. It could have been a matter of personal interview.

Mr. ULASEWICZ. Correct, sir.

Senator WEICKER. We have now got potential political contributors, we have potential political opponents of the President, we have other political types. What other types of individuals did you investigate? Again, in the categories?

Mr. ULASEWICZ. They might be members, might be members of a political family. It might be a son or a nephew or something of that type, perhaps an allegation of some possible misconduct, and I would go out on it to see whether or not it was true and develop it and return and give my report. That would likewise be done by going into the area, possibly making my own observations, interviewing people that might be familiar with the circumstances, the surroundings. I would determine habits, et cetera.

Also, in many instances, another category were persons seeking, who would be probably seeking visits to the White House or something of that type. They might want to know if it was a large group, they might want to know the political affiliations. That would be the registration records that would be concerned and I would go out and look at the public records for their registration, what party records there are prior to them coming in.

Senator WEICKER. All right. Any other categories such as groups oriented toward a particular philosophy or politics?

Mr. ULASEWICZ. In the outset of my investigations, early in the outset, when we were going over the problems with dissident groups within, picketing here at the White House and relatively, I had left from my experience in the police department, I might follow up on that. But that gradually phased out.

Senator WEICKER. So in fact, Mr. Ulasewicz—let me ask you this. Is there anything else—I do not want to cut you off in any way here;

let me just ask the general question—either as to the type of individual or group being investigated by you or the nature of your investigation. Is there anything else that you feel you would like to tell to this committee at this time relative to this subject matter without, and I repeat, without getting into the specifics or the name?

Mr. ULASEWICZ. I understand.

I think at this time, without going into further recollection, I think that you have pretty well covered it, Senator, generally, the groups and persons.

Senator WEICKER. So that in fact, Mr. Ulasewicz, the Watergate project which you discussed with this committee this morning was just another in, really, a series of activities that could be determined surptitious?

Mr. ULASEWICZ. It was another in a series of investigations, yes, sir.

Senator WEICKER. There was not anything that was particularly unusual about this activity compared to other ones that you had conducted?

Mr. ULASEWICZ. In a sense that when I received an assignment from a superior, from somebody, a directive, I did it, yes.

Senator WEICKER. Well, as an ex-law enforcement official, didn't you feel that the normal agencies of law enforcement in this country were totally capable of handling any matters that affected the safety or the well-being of the President of the United States?

Mr. ULASEWICZ. Oh, yes sir, undoubtedly, and I did it myself for the—yes, sir.

Senator WEICKER. In other words, the normal agencies could have accomplished that job without the activities that you conducted?

Mr. ULASEWICZ. Yes, sir.

Senator WEICKER. So your activities were not, could not be termed "protective" of the President of the United States, could they?

Mr. ULASEWICZ. No, sir.

Senator WEICKER. Would it be fair to say that you dealt in dirt at the direction of the White House?

Mr. ULASEWICZ. Allegations of it, yes, sir.

Senator WEICKER. But the information, Mr. Ulasewicz, and the activities conducted over this 3-year period were not open, were they? I am talking now about your activities.

Mr. ULASEWICZ. Oh, no, I conducted my investigations in the most discreet, confidential manner that I knew how.

Senator WEICKER. But the information which you solicited was not the type of information that you cared to write down, is that correct? Or that should appear in public print?

Mr. ULASEWICZ. Well, I don't know if it did appear in public print, if that is a—I didn't write it for the purposes of public print.

Senator WEICKER. I see. Are you indicating to me that possibly matters did come to the public attention that were based on your investigations?

Mr. ULASEWICZ. It is possible.

Senator WEICKER. I repeat my question: How would you categorize the information which you turned over to Mr. Caulfield?

Mr. ULASEWICZ. I would say it—

Senator WEICKER. Was it of a national security nature?

Mr. ULASEWICZ. No, sir.

Senator WEICKER. Domestic security nature?

Mr. ULASEWICZ. No, sir.

Senator WEICKER. Dirt?

Mr. ULASEWICZ. No, it would be of a political nature.

Senator WEICKER. Political dirt?

Mr. ULASEWICZ. All right, sir. And there were other assignments which were of a different nature which were not of that type.

Senator WEICKER. I have no further questions, Mr. Chairman. I just thought it important that the entire job that Mr. Ulasewicz had be characterized.

I suppose that I, like many others, can't fault in any way what's a wonderful sense of humor, Mr. Ulasewicz. But I must confess that a long time ago, I lost my sense of humor on the activities that you have described here today. I tell my friends, as a matter of fact, that it seems that today's Watergate joke becomes tomorrow's testimony.

I would only ask you this question to try to appropriately frame the description which you gave to me. Do you know where Mr. Liddy is right now?

Mr. ULASEWICZ. Yes, sir.

Senator WEICKER. Where?

Mr. ULASEWICZ. He is in prison.

Senator WEICKER. Mr. Hunt?

Mr. ULASEWICZ. He is in prison.

Senator WEICKER. Mrs. Hunt?

Mr. ULASEWICZ. She is dead.

Senator WEICKER. Mr. Barker?

Mr. ULASEWICZ. In prison, I believe.

Senator WEICKER. Mr. Gonzales?

Mr. ULASEWICZ. In prison—I am not certain of that.

Senator WEICKER. Mr. Sturgis?

Mr. ULASEWICZ. The same.

Senator WEICKER. Mr. Martinez?

Mr. ULASEWICZ. The same.

Senator WEICKER. I think what we see here is not a joke, but a very great tragedy.

I have no further questions, Mr. Chairman.

Mr. LENZNER. Mr. Chairman, may we have the photographs that were used earlier introduced as exhibits in today's testimony?

Senator ERVIN. Yes.

[The photographs referred to were marked exhibits Nos. 78 through 86.\*]

Mr. LENZNER. Thank you, Mr. Chairman. That is all I have.

Senator ERVIN. Senator Montoya, do you have any further questions?

Senator MONTOYA. I have no further questions.

Senator ERVIN. Senator Talmadge.

Senator TALMADGE. I have no further questions, Mr. Chairman.

Senator ERVIN. Then on behalf of the committee, I want to thank you for your cooperation with the committee. It may be necessary to recall you later in another phase of this matter and therefore, you

\*See pp. 2228-2230.

will remain under the same subpoena. As I understand it, you are willing to reappear on adequate notice being given to you as to the time and place.

Mr. SUTTER. That is correct.

Senator ERVIN. Thank you very much.

Mr. SUTTER. Mr. Chairman, may we thank the committee for the courtesies that have been extended to us, particularly in these august chambers.

Senator ERVIN. Thank you.

Mr. SUTTER. And that we have agreed with both counsel for the minority and the majority that we will render ourselves available pursuant to that subpoena at any future date.

Senator ERVIN. My information is that your client has cooperated fully with the committee.

Mr. SUTTER. That is correct, sir, he has.

Senator ERVIN. Thank you.

Will counsel please call the next witness?

Mr. DASH. Mr. Fred LaRue.

Senator ERVIN. Mr. LaRue, will you stand up and raise your right hand?

Do you swear that the evidence that you shall give to the Senate Select Committee on Presidential Campaign Activities shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LaRue. I do.

Senator ERVIN. Will you state your name and address for the record?

#### **TESTIMONY OF FRED C. LaRUE, ACCOMPANIED BY FRED VINSON, COUNSEL**

Mr. LaRue. Yes, sir, Fred C. LaRue, 1026 Hallmark Drive, Jackson, Miss.

Senator ERVIN. I note that you are accompanied by counsel. Will counsel state his name and address for the purpose of the record?

Mr. VINSON. Yes, Mr. Chairman. My name is Fred Vinson, member of the District of Columbia Bar, 800 17th St., NW. I am here on behalf of Mr. LaRue.

Mr. DASH. Mr. LaRue, I understand that you do have a brief statement to make.

Would you like to read that to the committee?

Mr. LaRue. Yes, sir.

Mr. DASH. Would you please read it, sir?

Mr. LaRue. Mr. Chairman, members of the committee, my home is in Jackson, Miss. Since 1969, however, I have spent a substantial part of my time in Washington, D.C., first working on the transition of administrations, then as a special consultant to the President, and since January 1972 I have served as a special assistant on the Committee To Re-Elect the President.

I learned that the Democratic National Committee headquarters had been broken into on June 17, 1972, shortly after the occurrence.

Prior to that time, I did know of the existence of a proposal to conduct political espionage by electronic surveillance. I learned of this plan at a meeting I attended in late March 1972; and this is the only



time I heard it discussed. At that meeting I recommended against the plan. It was not approved in my presence, and I have no personal knowledge of its approval by anyone.

After the Watergate arrests and subsequent to June 17, 1972, my knowledge and involvement increased. I learned from Mr. Gordon Liddy on June 20 that he, an official of the committee, had in fact been involved in this fiasco.

I later sat in on meetings with Mr. Magruder and others at which the protective story he had evolved was discussed, and I joined in that coverup, at least by acquiescence.

Then I was the recipient of several deliveries of cash which, at various times, I was called upon to distribute to a number of persons in satisfaction of commitments made by others to the defendants in the Watergate trial.

I am fully aware now that what I did then was wrong, both ethically and legally, and I have faced up to that fact and I am prepared to accept the consequences. It is difficult to recreate a mood and even one's own attitudes in a time of stress; but when this was transpiring, I had no intent to violate the law. I was motivated solely by my concern for the Presidential campaign in which we were engaging.

I have given my full cooperation, to the best of my ability and recollection, to the staff of this committee in preparation for these hearings. Furthermore, I have, and will continue, to fully cooperate with the Watergate prosecutors and the Federal grand jury inquiring into these matters. I am prepared to try to answer any questions you may have for me.

Mr. DASH. Mr. LaRue, when you state on page 2 of your statement that you are fully aware now that what you did was wrong both ethically and legally and that you have faced up to that fact, are you referring, Mr. LaRue, to the fact that you have pled guilty to a one-count information for conspiracy to obstruct justice?

Mr. LARUE. That is correct.

Mr. DASH. That count has to do with the relationship that you had with the parties that were involved in the coverup of the Watergate matter?

Mr. LARUE. Yes, that is correct.

Mr. DASH. We will get more into those details and when we do, would you please let us know what portions of your answers refer to that plea of guilty?

Mr. LARUE. Very well.

Mr. DASH. Mr. LaRue, how long have you been associated with John Mitchell on political affairs?

Mr. LARUE. To the best of my recollection, Mr. Dash, since the latter part of 1966 or early 1967.

Mr. DASH. What was your role in the 1968 election?

Mr. LARUE. I was special assistant to the campaign director, John Mitchell.

Mr. DASH. Did you work in the White House after the 1968 election?

Mr. LARUE. Yes, sir.

Mr. DASH. What position did you have and how long did you have it?

Mr. LARUE. As I have stated in my opening statement, initially I worked on the transition of the administrations. Later I became special consultant to the President.

Mr. DASH. Now, when did you first begin working at the Committee To Re-Elect the President?

Mr. LaRUE. January of 1972.

Mr. DASH. What was your role there, Mr. LaRue?

Mr. LaRUE. I was a special—well, later on I became special assistant to the campaign director. Initially, there was no campaign director, and actually no title that I know of in the initial period.

Mr. DASH. To whom did you report?

Mr. LaRUE. To the campaign director or to Mr. Mitchell.

Mr. DASH. Now, are you still associated with the committee, Mr. LaRue?

Mr. LaRUE. No, I am not.

Mr. DASH. During the time you were with the Committee To Re-Elect the President, were you compensated in any way?

Mr. LaRUE. No, sir. I volunteered my services. I did receive, at the rate of where I received \$1,500 a month as reimbursement on expenses.

Mr. DASH. During this time were you privately employed?

Mr. LaRUE. Yes, sir, I am self-employed.

Mr. DASH. Could you state the nature of that business?

Mr. LaRUE. Investment businesses, primarily real estate investments.

Mr. DASH. So you had your own company during the time you were donating your services to the committee?

Mr. LaRUE. Yes, sir.

Mr. DASH. Mr. LaRue, prior to the meeting you referred to in later March 1972, in Key Biscayne, did Mr. Magruder inform you at any time of any meetings that he had with Mr. Mitchell concerning an intelligence plan that Mr. Liddy was preparing?

Mr. LaRUE. No, sir.

Mr. DASH. Do you recall an incident sometime prior to the March meeting in Key Biscayne where Mr. Liddy and Mr. Magruder had an altercation and you may have served as a peacemaker?

Mr. LaRUE. Yes, I do.

Mr. DASH. Would you please tell us what that was all about and what role you played?

Mr. LaRUE. As I recall, Mr. Dash, I was asked by Mr. Magruder to sit in on a meeting that he was going to have with Mr. Liddy, which I did. I think the subject of this meeting was an altercation that Mr. Magruder and Mr. Liddy had had. My understanding was that Mr. Magruder had, in effect, reprimanded Mr. Liddy for failure to carry out some project on a timely basis, and this reprimand was I think, in the presence of some other people. Mr. Liddy was very incensed about this, a very heated argument ensued between Mr. Magruder and Mr. Liddy.

Mr. DASH. What, if anything, did you hear Mr. Liddy say in this heated argument to Mr. Magruder?

Mr. LaRUE. At one point in the argument, Mr. Liddy told Mr. Magruder that if he did not like the way he was doing his job that he could get someone else to do his dirty work for him. I think he suggested—Mr. Magruder asked him if he had anyone in mind, I think he suggested the name Howard Hunt.

Mr. DASH. Did you have any idea what he meant, "To get his dirty work done for him?"

Mr. LARUE. No; I did not. It was my understanding that Mr. Liddy was working on some intelligence activities, my understanding was, in connection with the Republican Convention that was to be held in San Diego.

Mr. DASH. Were you aware that Mr. Liddy was receiving sums of money from the Republican campaign?

Mr. LARUE. No, sir.

[Disturbance in audience.]

Mr. DASH. Neither my question nor your answer accomplished that, I am sure.

Now, you were not aware then from your testimony that Mr. Liddy was involved in any intelligence plan or planning than the one you have just testified to with relationship to the convention?

Mr. LARUE. That is correct.

Mr. DASH. What brought you to Key Biscayne at the end of March, I take it, it was around March 29. When did you go to Key Biscayne?

Mr. LARUE. As I recall, March 22 or March 23.

Mr. DASH. What was the reason for your going?

Mr. LARUE. Accompanied the Mitchells on a vacation.

Mr. DASH. You said you arrived around the 22nd?

Mr. LARUE. March 22 or March 23, as I recall.

Mr. DASH. All right; who else was there?

Mr. LARUE. Mr. and Mrs. Mitchell, their daughter, Miss Forzberg, Mrs. Mitchell's secretary, Mr. Caulfield, who was Mr. Mitchell's security man. Later on we were joined by Mr. Tom Wentz, who was another security man and myself.

Mr. DASH. Did Mr. Jeb Magruder come down to Key Biscayne around that time?

Mr. LARUE. Yes, sir, it was later, several days later, as I recall, March 29.

Mr. DASH. Do you know what the purpose of Mr. Magruder's visit to Key Biscayne was about?

Mr. LARUE. Yes, sir, I do. Mr. Magruder and Mr. Flemming came down to Key Biscayne to discuss several political problems, and to discuss with Mr. Mitchell several activities that needed decisions made relating to the campaign.

Mr. DASH. Were you present when the so-called agenda items were being discussed between Mr. Magruder, Mr. Mitchell took place?

Mr. LARUE. Yes, sir.

Mr. DASH. How many were there?

Mr. LARUE. I can't recall any specific number, Mr. Dash.

Mr. DASH. Was it a large number?

Mr. LARUE. Yes, sir.

Mr. DASH. Now, prior to the actual meeting in which the agenda items were discussed, were you given a copy of any of these agenda items?

Mr. LARUE. Yes, sir, I was given—I requested a copy of all of them.

Mr. DASH. All right. Was any particular one of interest to you?

Mr. LARUE. Yes, sir. In reviewing the items—priorityizing them for the meeting the next day, I ran across a paper which discussed or outlined a plan of electronic surveillance. There was a budget attached to this.

Mr. DASH. Who gave you that, those agenda items?

Mr. LARUE. Mr. Magruder.

Mr. DASH. Now could you describe in as much detail as you can the discussions concerning the political intelligence plan? Did you know it was Mr. Liddy's plan? Did you know that that plan was being proposed by Mr. Liddy?

Mr. LARUE. As I recall there was no reference to Mr. Liddy.

Mr. DASH. When did actually Mr. Magruder and Mr. Mitchell arrive at the discussion of that plan? Was it at the beginning or the end?

Mr. LARUE. This was at the end of the meeting because I had placed this paper at the bottom of the list of proposals that would be discussed.

Mr. DASH. Why did you do that?

Mr. LARUE. Well, there were actually two reasons, Mr. Dash. We did not know if we were going to finish, if we had enough time to finish a discussion on all of these proposals during this meeting. I had, as I indicated, had put them in what I considered priority order and I placed this on the bottom. I discussed this with Mr. Magruder that morning and also indicated to him that I would prefer that the discussion of that paper, if we got to it, would be only in the presence of he, Mr. Mitchell, and myself and that we find some way to excuse Harry Flemming from the meeting.

Mr. DASH. Did you find any way to excuse Harry Flemming from the meeting?

Mr. LARUE. Yes, sir.

Mr. DASH. So he left?

Mr. LARUE. Yes, sir.

Mr. DASH. And there did come a time when you did begin to discuss the so-called intelligence plan?

Mr. LARUE. Yes, sir.

Mr. DASH. Do you recall the budget on that plan?

Mr. LARUE. Pardon me?

Mr. DASH. Do you recall the budget on that plan?

Mr. LARUE. There was a budget attached to that plan; yes, sir.

Mr. DASH. Do you recall the amount of that budget?

Mr. LARUE. No specific amount—to the best of my recollection, it was several hundred thousand.

Mr. DASH. Would a quarter million, \$250,000 be the figure?

Mr. LARUE. I have no specific recollection of that.

Mr. DASH. All right. Could you tell us once that plan was being presented what took place? What did Mr. Mitchell say, what did you say, what did Mr. Magruder say?

Mr. LARUE. As I recall, Mr. Dash, Mr. Magruder, as in the previous proposals, handed this paper to Mr. Mitchell. Mr. Mitchell read it, he asked me if I had read it and I told him I had. He asked me what I thought of it and I told him I did not think it was worth the risk.

Mr. DASH. What did Mr. Mitchell say to that?

Mr. LARUE. Mr. Mitchell, to the best of my recollection, said something to the effect that, "Well, this is not something that will have to be decided at this meeting."

Mr. DASH. All right. To your recollection then, Mr. Mitchell did not reject that plan out of hand at that time, did he?

Mr. LARUE. Not to my recollection; no sir.

Mr. DASH. Now, do you know when Mr. Magruder left Key Biscayne?

Mr. LARUE. As I recall this meeting was on March 30, and to the best of my recollection, he left the following day.

Mr. DASH. And therefore there was ample opportunity for Mr. Magruder and Mr. Mitchell to meet together, was there not, between the time that this plan was being discussed in your presence and the time Mr. Magruder left?

Mr. LARUE. Well, I can't state that there was ample opportunity, no sir. That would not be a correct statement, Mr. Dash, because Mr. Magruder left the house in which we were staying, as I recall, you know, sometime shortly after that meeting, and I don't recall Mr. Magruder returning to the house during the time he was in Key Biscayne, and I was at the house all during this time.

Mr. DASH. Do you recall Mr. Mitchell leaving the house?

Mr. LARUE. I do not; no, sir.

Mr. DASH. Would it be possible that he did?

Mr. LARUE. It would certainly be possible, I guess, Mr. Dash, but I have no recollection.

Mr. DASH. Now, during the time that they were in the house together and with you during the meeting, were you in the room at all times?

Mr. LARUE. I could not state definitely that I was in the room at all times, no, sir.

Mr. DASH. You could not state it. As a matter of fact it is quite possible that you were out of the room at certain times.

Mr. LARUE. That is a possibility. I have no recollection of that.

Mr. DASH. It is also possible, is it not, that you were on the telephone a number of times?

Mr. LARUE. Pardon me.

Mr. DASH. It is also possible, is it not, that you were on the telephone a number of times?

Mr. LARUE. Yes, sir. However, I would like to state now that there were telephones in the room in which we were holding the meeting.

Mr. DASH. And, therefore, Mr. LARUE, would it be fair to say that you could not state to this committee that at no time while Mr. Magruder was meeting with Mr. Mitchell in Key Biscayne he did not get some indication of approval from Mr. Mitchell concerning this plan?

Mr. LARUE. Mr. Dash, I am sorry, I didn't hear your question.

Mr. DASH. Would it be fair, Mr. LaRue to state that you cannot, from your own recollection, tell this committee that at no time while Mr. Magruder was meeting with Mr. Mitchell, in Key Biscayne, that Mr. Mitchell did not approve the so-called Liddy plan or this intelligence plan?

Mr. LARUE. Mr. Dash, I am very sorry, I still don't know if I understand your question.

Mr. DASH. Let me try to simplify that question. I am just trying to have you state to the committee whether you, of your own knowledge, can state to the committee that at no time during the time when Mr. Magruder was down at Key Biscayne that Mr. Mitchell approved or disapproved that intelligence plan.

Mr. LARUE. That is correct.

Mr. DASH. After you left Key Biscayne, did you discuss the Key Biscayne meeting with any of the participants, Mr. Mitchell or Mr. Magruder and at any later time.

Mr. LARUE. Not to my recollection, no, sir.

Mr. DASH. Before, not even after June 17 during the break-in.

Mr. LARUE. Yes, sir; I have had discussions after June 17. I am sorry, I was thinking in the time frame of Key Biscayne to the break-in.

Mr. DASH. Well, with whom did you discuss it after, say, June 17?

Mr. LARUE. I have discussed this with Mr. Magruder, I think I have discussed this with Mr. Mitchell.

Mr. DASH. What, if anything, did you say to Mr. Magruder, or did Mr. Magruder say to you about it?

Mr. LARUE. We discussed it, and we had a very obvious difference of opinion as to what happened at the meeting.

Mr. DASH. What did Mr. Magruder tell you and when did he tell you? Can you recall when that discussion took place?

Mr. LARUE. There would have been, I think, in the time period of March or April—April, probably.

Mr. DASH. Of what year?

Mr. LARUE. This year.

Mr. DASH. This year?

Mr. LARUE. Yes, sir.

Mr. DASH. Is that the first time since the Key Biscayne meeting of March 30, 1972, that you discussed this with Mr. Magruder?

Mr. LARUE. Yes, I think that is correct.

Mr. DASH. Now, between that March 30 meeting and March or April of this year, the break-in took place at the Democratic National Committee headquarters in Watergate?

Mr. LARUE. That is correct.

Mr. DASH. When that break-in took place, did it occur in your mind that this had some relationship to the plan that had been presented down at Key Biscayne?

Mr. LARUE. Yes, sir.

Mr. DASH. Did you then go to Mr. Magruder and say, "How did this come about?"

Mr. LARUE. I don't recall discussing with Mr. Magruder regarding the conversation or the meeting at Key Biscayne, and I have had several conversations with Mr. Magruder subsequent to the break-in, several aspects of the Watergate—Watergate break-in.

Mr. DASH. As a matter of fact, is this not true, Mr. LaRue, that during June, after the break-in, July, and August, you almost had daily meetings with Mr. Magruder, Mr. Mitchell, Mr. Mardian, and in fact you saw Mr. Magruder quite frequently in the months just after the break-in?

Mr. LARUE. Virtually every day, yes, sir.

Mr. DASH. Yes. And you mean it never occurred to you to ask Mr. Magruder that after that meeting at Key Biscayne, at which you were present, and actually read over the plan the day before, and was present when it was being discussed on March 30, and then the break-in did occur that you didn't raise the question with Mr. Magruder, "How did this come about?"

Mr. LARUE. Yes, sir, I raised the question and speculated with Mr. Magruder on several occasions as to how this came about.

Mr. DASH. Well, then, it is not true that you did not talk to him until March or April but that you discussed this actually during the months of June, July, or August 1972?

Mr. LARUE. After the break-in, yes, sir.

Mr. DASH. And what did Mr. Magruder say to you when you discussed this with him about his role or his participation in the break-in?

Mr. LARUE. Mr. Magruder's conversations with me were reflected in his testimony up here. He told me virtually—told me the same thing that he testified to before this committee as to his role in the break-in.

Mr. DASH. In other words, he made a complete confession to you?

Mr. LARUE. Yes, sir.

Mr. DASH. Do you know when was the first time he did that? Approximately? I do not want to push you to a date.

Mr. LARUE. I have no specific recollection of dates, Mr. Dash, but I would say in the period of a week or 10 days after the break-in.

Mr. DASH. And did he not, Mr. LaRue, tell you about a phone call that he received from Mr. Colson concerning the so-called Liddy plan?

Mr. LARUE. Yes, sir.

Mr. DASH. Could you tell us what he told you about that phone call?

Mr. LARUE. As I recall, Mr. Dash, this conversation occurred as a result of speculation that Magruder and I were having on who may be involved or who may have had knowledge of the Watergate break-in. He told me that he had had a call from Mr. Colson, I think sometime in the period of March or April, in which Mr. Colson had asked Mr. Magruder why they could not get an approval on the Liddy budget.

Mr. DASH. Did he tell you then or remind you that he understood that you were present at his side, in the room, when he received the phone call from Mr. Colson?

Mr. LARUE. I do not recall any such discussion, no, sir.

Mr. DASH. You know of his testimony before this committee, in which he has testified that you were in the room?

Mr. LARUE. Yes, sir, I am aware of that. My recollection is as I have just stated.

Mr. DASH. Now, when you state that Mr. Magruder told you everything, it was about a week or so after the break-in. Was anybody else present when he said that to you or told you about this?

Mr. LARUE. Not that I recall. As I recall, it had been a discussion between just Mr. Magruder and I.

Mr. DASH. Now, Mr. LaRue, when and where did you actually first hear about the June 17 break-in matter?

Mr. LARUE. At the Beverly Hills Hotel in Los Angeles, Calif.

Mr. DASH. Were you with anybody else at that time?

Mr. LARUE. Yes, sir, we were on a trip. Present were Mr. Mitchell, Mr. Magruder, Mr. Mardian, Mr. Porter, I think Mr. Caldera from the committee. I mean these were the people who were present from the reelection committee.

Mr. DASH. Now, can you tell the committee as clearly as you can recall, how that news came to you, who first learned about it and how you learned about it, and what was done?

Mr. LARUE. As I recall, Mr. Dash, we were having breakfast on—I think Saturday morning—I guess that would be June 17. Mr. Magruder was paged, went to the telephone. He came back to the table

and said that he had had a rather unusual, strange call from Gordon Liddy, who wanted him to go to some, as I recall, some NASA installation or NASA base in Los Angeles, where there was a secure phone, and to use this phone to call back to Mr. Liddy in Washington.

Mr. DASH. Did Mr. Magruder say anything about what the problem was? Do you recall the words as nearly as possible?

Mr. LARUE. Well, he indicated that Mr. Liddy—he said Mr. Liddy indicated that there was a problem he wanted to discuss and Mr. Magruder, in an aside to me, said that, you know, I think maybe last night was the night they were going into the Democratic National Committee.

Mr. DASH. Did that mean anything to you when he said that?

Mr. LARUE. Well, specifically, no, but it, in view of the fact that I was aware of this plan that had been discussed in Key Biscayne, it certainly aroused a great curiosity or interest on my part, yes, sir.

Mr. DASH. Now, what followed? Mr. Magruder then went ahead and spoke to Mr. Liddy?

Mr. LARUE. I think I told Mr. Magruder that, why didn't he just go and use a pay phone, that that would probably be secure enough for the purposes.

Mr. DASH. What did he do?

Mr. LARUE. He called Mr. Liddy back and then came back and told me that Liddy had told him that there had been a break-in at the Democratic National Committee; I think five people had been caught inside, and that one of the people was Mr. McCord, who was our security man at the reelection committee.

Mr. DASH. Now, was that information relayed to Mr. Mitchell?

Mr. LARUE. Yes; I personally relayed that to Mr. Mitchell.

Mr. DASH. What was Mr. Mitchell's reaction?

Mr. LARUE. I had gotten Mr. Mitchell out of another meeting. We went into an adjoining room. I relayed this information to Mr. Mitchell. He was very surprised. I think as I recall, he made the statement, "That is incredible."

Mr. DASH. Now, did Mr. Mitchell give any instructions to anybody after getting that information?

Mr. LARUE. Not at that time. As I recall, Mr. Mitchell went back into his meeting. Then later on, I think Mr. Magruder and I and Mr. Mitchell met and, yes, Mr. Mitchell asked that someone call Mr. Liddy and have him contact Mr. Kleindienst, the Attorney General, and have Mr. Kleindienst get in touch with Chief Wilson and see what details we could find out about this situation.

Mr. DASH. Now, was anything else done to your knowledge, while you were out in California, concerning the break-in?

Mr. LARUE. Well, yes, there was a—Mr. Mitchell issued a press statement on the instant—I think that was Saturday afternoon.

Mr. DASH. Anything else?

Mr. LARUE. Well, there were several telephone calls made back and forth from Washington to—I mean, from Los Angeles to Washington, to our press office here.

Mr. DASH. I take it there was quite a commotion.

Mr. LARUE. Yes, sir.

Mr. DASH. Now, you returned. When did you return to Washington from California?



Mr. LARUE. It would be the following Monday. It would be, I think, the 19th of June.

Mr. DASH. All right. On that Monday in the evening, did you attend a meeting in Mr. Mitchell's Washington apartment at the Watergate?

Mr. LARUE. Mr. Mitchell's apartment?

Mr. DASH. Yes.

Mr. LARUE. Yes, sir.

Mr. DASH. Who was at this meeting?

Mr. LARUE. Mr. Mitchell was at the meeting, I was at the meeting, Mr. Mardian came to the meeting, Mr. Dean, and Mr. Magruder.

Mr. DASH. Now, could you tell us generally what the meeting was about and what discussion took place?

Mr. LARUE. Mr. Dash, I have no specific recollection of any of the discussions other than I would assume, and I am sure from the participants, that the discussion centered on the Watergate incident. The only specific incident that I recall was a discussion by Magruder of some sensitive files which he had, about my understanding relating to this incident, and that he was seeking advice about what to do about those files.

Mr. DASH. Now, did the term or the name "Gemstone" used at that time? Did he refer to it?

Mr. LARUE. If it was used, I do not recall it, no sir. It would not have meant anything to me, anyway.

Mr. DASH. Had you ever heard of that term "Gemstone"?

Mr. LARUE. Not at that time, no sir.

Mr. DASH. Is there a possibility it was used at that time?

Mr. LARUE. There is a possibility, but as I say, it would not have meant anything to me.

Mr. DASH. You say Mr. Magruder asked what he should do about these sensitive files?

Mr. LARUE. Yes, sir.

Mr. DASH. Did he get a response to that?

Mr. LARUE. As I remember, there was a response from Mr. Mitchell that it might be good if Mr. Magruder had a fire.

Mr. DASH. Who said that?

Mr. LARUE. As near as I can recall, Mr. Mitchell said that.

Mr. DASH. That it might be a good idea if he had a good fire in his house?

Mr. LARUE. Yes.

Mr. DASH. Do you recall in any discussion of the politically sensitive files that the information they involved was electronic surveillance?

Mr. LARUE. As I recall, there was a reference to files pertaining to electronic surveillance, yes, sir.

Mr. DASH. Is it true that at this meeting on June 19, 1972, where a discussion was had about these files and the recommendations that it would be good if Mr. Magruder had a good fire in his house, was one of the overt acts which is included in the information, the conspiracy of information to which you pleaded guilty, the June 19 meeting?

Mr. LARUE. Yes, sir; that is true.

Mr. DASH. Now, was there a meeting in your apartment on June 20, 1972?

Mr. LARUE. Yes, sir.

Mr. DASH. Could you tell us who was there?

Mr. LARUE. Mr. Mardian, Mr. Liddy and myself.

Mr. DASH. And what was discussed at that time? This is Mr. Gordon Liddy?

Mr. LARUE. Yes, that is correct.

This discussion centered around Mr. Liddy's knowledge and involvement in the break-in.

Mr. DASH. You say centered around his involvement. Could you be a little more specific? What did Mr. Liddy say? Was he there to tell you what had occurred?

Mr. LARUE. I don't know that he was there for that purpose, but this is what evolved.

Mr. DASH. Who set up the meeting?

Mr. LARUE. Mr. Mardian set up the meeting.

Mr. DASH. What did you understand, since it was in your apartment, that the meeting was to be about?

Mr. LARUE. My presence in the meeting occurred in this manner: Mr. Mardian came to me on that day and wanted to know if he could borrow my, use my apartment, that he had a meeting set up with Gordon Liddy. I told him that would be fine. I gave him the keys to my apartment, and I think at that time, he said, you might as well join me.

Mr. DASH. Where, by the way, is your apartment located?

Mr. LARUE. At that time, I was in Watergate West.

Mr. DASH. Now, you knew that, especially from what Mr. Magruder had told you on his telephone call with Mr. Liddy, that Mr. Liddy had been one of those who was involved in the break-in?

Mr. LARUE. No, Mr. Dash, I do not think that was discussed at that time.

Mr. DASH. Well, you said that Mr. Magruder went back and said there was trouble, there was a break-in, that that was the day they were going to go into Democratic national headquarters when Mr. Liddy was on the phone. When Mr. Magruder came back, didn't you say that Mr. Liddy had told Mr. Magruder about the break-in?

Mr. LARUE. Yes; but I don't think that at that time, Mr. Liddy had indicated any involvement of himself at that operation.

Mr. DASH. Did he mention Mr. McCord?

Mr. LARUE. He did mention Mr. McCord, yes, sir.

Mr. DASH. At that time, did he mention himself at your apartment on June 20?

Mr. LARUE. Yes, sir.

Mr. DASH. Could you tell us what he did say about his involvement?

Mr. LARUE. Mr. Liddy told us that he had recruited the five people that had been caught in the Democratic National Committee, that he had, he and Mr. Hunt had set up this operation, that he and Mr. Hunt were at a hotel room at the Watergate Hotel during the actual break-in. He described the listening post that they had across the street at the Howard Johnson's.

Mr. DASH. By the way, did he tell you about any other activity he had been engaged in for intelligence purposes or covert activities besides the break-in at the Watergate?

Mr. LARUE. Yes, he did.

Mr. DASH. Could you tell us what they did?

Mr. LARUE. Mr. Liddy mentioned that he had on other occasions been involved in incidents or operations for the White House, and he specifically mentioned the attempted burglary of the office of the psychiatrist of Mr. Ellsberg. He specifically mentioned another incident in which Mr. Hunt used a disguise, I think—this was in Denver, Colo., when Mrs. Dita Beard was in the hospital. Mr. Hunt used a disguise to surreptitiously enter the room and have a conversation with Mrs. Beard.

Mr. DASH. Do you recall any other incidents that he talked about?

Mr. LARUE. I don't recall any, no, sir.

Mr. DASH. Do you recall Mr. Liddy telling you or Mr. Mardian about his shooting out the lights around the McGovern headquarters?

Mr. LARUE. Yes, I do recall that.

Mr. DASH. That was during an unsuccessful attempt to break into McGovern headquarters?

Mr. LARUE. An unsuccessful attempt. He had shot out some lights, I think in an alley or someplace around McGovern headquarters.

Mr. DASH. Do you recall Mr. Liddy discussing at that time whether or not there was any possibility he might get caught or might get found out?

Mr. LARUE. Mr. Liddy assured us that he had conducted this operation in such a manner that it could not be traced to him, that we should not have any fears that any subsequent investigation would lead to him.

Mr. DASH. Nevertheless, did Mr. Liddy offer any type of punishment that he would be willing to accept for his failure in this case?

Mr. LARUE. Yes; Mr. Liddy assured us that in any event, he would never reveal any information about this in the course of any investigation, even if it led to him, but if we were not satisfied with that assurance, that though he was, I think, personally or morally opposed to suicide, that if we would instruct him to be on any street corner at any time, he would be there and we could have him assassinated.

Mr. DASH. In other words, he was willing to be rubbed out?

Mr. LARUE. Yes, sir.

Mr. DASH. I take it nobody took him up on his offer?

Mr. LARUE. Not that I know of, no, sir.

Mr. DASH. Now, the meeting was between you, Mardian, and Mr. Liddy in your apartment?

Mr. LARUE. Yes, sir.

Mr. DASH. Now, it was this meeting that you had with Mr. Liddy in which these revelations came from Mr. Liddy. Was this information reported to Mr. Mitchell?

Mr. LARUE. Yes, it was.

Mr. DASH. Do you recall when it was, by whom?

Mr. LARUE. The best of my recollection would be the same day, the afternoon or late evening of June 20.

Mr. DASH. What was Mr. Mitchell's reaction when he heard what you had to say?

Mr. LARUE. Well, he was—Mr. Mitchell is not a person that demonstrates a great deal of emotion about anything, Mr. Dash. I don't recall any specific reaction.

Mr. DASH. Now, did Mr. Liddy tell you who had approved the operation when he was telling you about the break-in at the Democratic National Committee headquarters, or any of the other activities?

Mr. LARUE. No; not to my recollection, no, sir.

Mr. DASH. Did he not tell you that he was acting on the approval of the White House or Mr. Mitchell?

Mr. LARUE. Mr. Dash, I don't recall a discussion of that nature, no, sir.

Mr. DASH. Now, when was the subject of fundraising for the Watergate defendants first brought up in your presence or mentioned to you?

Mr. LARUE. Mr. Dash, I am sorry, but I don't have any specific recollection or dates regarding the initial discussions on fundraising.

Mr. DASH. I am not trying to pin you down to any particular date. Was it around this time? Was it around the time that you had the meeting with Mr. Liddy?

Mr. LARUE. Yes; I would say that it was in this time period. To the best of my recollection, at the Liddy meeting, he indicated that certain commitments had been made to him and subsequently passed by him to the other people involved, that certain commitments had been made regarding the maintenance or expenses for the maintenance of their families, legal expenses.

Mr. DASH. Did he tell you who had made these commitments?

Mr. LARUE. No sir, he did not.

Mr. DASH. But that he expected that there would be payments made for the boys in jail, is that right?

Mr. LARUE. Yes, sir.

Mr. DASH. Now, what was your role to be in this respect at this time?

Mr. LARUE. My role in what, I am sorry?

Mr. DASH. What was your role in providing funds or the payment for the defendants?

Mr. LARUE. At this time?

Mr. DASH. At this time.

Mr. LARUE. I didn't have any role, Mr. Dash.

Mr. DASH. Did there come a time when you had a role with Mr. Kalmbach?

Mr. LARUE. Yes, sir.

Mr. DASH. Will you tell us about that. When did you first learn that Mr. Kalmbach was going to be involved and what role you were going to have with regard to his activities?

Mr. LARUE. My best recollection of that, Mr. Dash, was that I received a phone call from Mr. Kalmbach to meet him at the Statler-Hilton Hotel, that date was the latter part of June, June 28, June 29.

Mr. DASH. And you did meet with him?

Mr. LARUE. Yes, sir.

Mr. DASH. Could you tell us what happened at that meeting?

Mr. LARUE. I met with Mr. Kalmbach, the nature of that discussion, as I recall, Mr. Kalmbach stated that he had undertaken an assignment to raise money to meet the commitments that had been made to the Watergate defendants. Our discussion centered on a method or a way that contact could be made with the defendants and in which the amount of money could be discussed or be determined.

Mr. Kalmbach indicated that he had a person who was very discreet, very reliable that could be used for this purpose. We discussed—

Mr. DASH. Did he mention his name?

Mr. LARUE. No; he did not mention his name but, as I recall, during this meeting determined that we would use a code name, Mr. Rivers, for this person.

Mr. DASH. I think you have since learned that Mr. Tony Ulasewicz was Mr. Rivers?

Mr. LARUE. That is my understanding, yes, sir. We also discussed how we would or how Mr. Rivers could establish contact with the defendants, and it was decided that probably the best way would be for him to try to contact some of the attorneys who were working for the defendants at this time.

Mr. DASH. Did you arrange any kind of a relationship that you and Mr. Kalmbach would have if you wanted to call each other about this?

Mr. LARUE. Yes, sir.

Mr. DASH. Any kind of a code arrangement?

Mr. LARUE. Yes, sir.

Mr. DASH. Will you tell us about that?

Mr. LARUE. Mr. Kalmbach indicated that this was, this would be necessary, that this would be a very secret operation, and that we should conduct our business by pay telephones, and that we would use the code name Bradford.

Mr. DASH. Were you Mr. Bradford?

Mr. LARUE. That really wasn't, I think, determined, at least not to my knowledge and consequently we both ended up with the code name Bradford.

Mr. DASH. In other words, when you called Mr. Kalmbach you asked for Mr. Bradford and if he asked for you, he would call for Mr. Bradford and you both would know what you were talking about?

Mr. LARUE. That is correct.

Mr. DASH. Did you learn of what problems Mr. Rivers was having with the lawyers?

Mr. LARUE. Yes; that subsequent, a subsequent telephone conversation I had with Mr. Bradford—Kalmbach—

Mr. DASH. How often did you really use that name so as to fall into the habit of calling Mr. Kalmbach, Bradford?

Mr. LARUE. He indicated that Mr. Rivers was having considerable difficulty establishing a contact through the lawyers, and as I recall at that time we had a discussion of this problem and decided that Mr. Rivers had tried to effect a contact with Mrs. Hunt.

Mr. DASH. Now, after your first meeting with Mr. Kalmbach and the arrangements were made, did you again meet with Mr. Kalmbach in Mr. Dean's office sometime in the middle of July 1972?

Mr. LARUE. Yes, sir.

Mr. DASH. Mr. Dean was present at that time?

Mr. LARUE. That is correct.

Mr. DASH. Could you tell us what was said at that meeting, what the purpose of the meeting was?

Mr. LARUE. My recollection of that meeting, Mr. Dash, is Mr. Kalmbach had secured from Mr. Rivers a—some specific amount of money that would be necessary or would be required to meet the commitments, there were specific amounts for attorney fees at this time and, as I recall specific amounts of money that would be required for maintenance of their families.

Mr. DASH. Did you provide any special instructions concerning how much money was to be given to which person?

Mr. LARUE. No, sir, Mr. Dash. I would have had no way to have any knowledge of this, and I think Mr. Kalmbach has testified that I, you know, that I furnished this information, I think Mr. Kalmbach is just mistaken in this. I had no way to have this information. I have never discussed, never talked to any of the defendants and don't know any of them other than Liddy.

Mr. DASH. Did you give Mr. Kalmbach any money at that meeting?

Mr. LARUE. Yes, sir; as I recall, I think at that meeting, I gave—as I recall I gave Mr. Kalmbach approximately \$20,000.

Mr. DASH. Approximately \$20,000. And what was the source of that money, Mr. LaRue?

Mr. LARUE. Around the first of July, the period of July 1 through July 4, 5, or 6, I received \$81,000 in two different, from two different sources. I received approximately \$41,000 from Mr. Sloan, who was the treasurer for the finance committee. I received approximately \$40,000 from Mr. Mardian who gave me this money, was passing this money to me from Mr. Stans.

Mr. DASH. Was this all in cash, Mr. LaRue?

Mr. LARUE. Yes, sir.

Mr. DASH. Do you recall the denominations of the bills?

Mr. LARUE. I can't say they were all \$100 bills but predominantly \$100 bills; yes, sir.

Mr. DASH. What role did you have after this particular meeting with Mr. Dean and Mr. Kalmbach. Did you assume any particular role while Mr. Kalmbach was carrying on this particular mission?

Mr. LARUE. Well, yes, sir, I had numerous telephone conversations with Mr. Kalmbach. I would say my role would be a concurrence with Mr. Dean and with Mr. Kalmbach on the deliveries of money.

Mr. DASH. Would it be fair to say you were sort of a conduit at this point?

Mr. LARUE. During this period of time, Mr. Dash, I had sort of, you know, numerous conversations on this subject with Mr. Dean, with Mr. Kalmbach, reporting conversations from Kalmbach to Dean, reporting conversations I had with Dean to Kalmbach.

Mr. DASH. Now, did you report to Mr. Mitchell on your meeting with Mr. Kalmbach and Dean?

Mr. LARUE. Not to my recollection; no, sir.

Mr. DASH. To anyone else?

Mr. LARUE. Not to my recollection; no, sir.

Mr. DASH. Did you meet with Mr. O'Brien during the summer of 1972?

Mr. LARUE. Yes, sir; I met with Mr. O'Brien many times.

Mr. DASH. Could you tell us about how often and what was discussed at this time at these meetings?

Mr. LARUE. I met with you know, Mr. O'Brien. I wouldn't say on a daily basis, but Mr. O'Brien had been retained by the committee as a counsel representing us in civil litigation, and we had just numerous conversations, Mr. Dash.

Mr. DASH. Did any of those conversations have to do with the needs of the defendants in the criminal cases?

Mr. LARUE. Certainly not in this time period, Mr. Dash. There would have, I think, been—I did have conversations later on with Mr. O'Brien, but there would have been, I think—

Mr. DASH. What about Mr. Parkinson, did you meet with him during this period of time in the summer of 1972?

Mr. LARUE. Yes, sir.

Mr. DASH. Did you have any discussions with Mr. Parkinson concerning the defendants' needs?

Mr. LARUE. Here again, Mr. Dash, I think not in this time period. I think the first discussions I had with Mr. Parkinson regarding the money for the defendants would have been, oh, in the later part of September or October.

Mr. DASH. All right now, did you attend meetings during the summer and early fall, actually the summer, June, July, and August, at which Mr. Magruder discussed the story of his testimony which he was going to give to the grand jury?

Mr. LARUE. Yes, sir.

Mr. DASH. Who was present at the meeting?

Mr. LARUE. Mr. Dash, I would like to clarify that. The first meetings that were held or that I attended discussing Mr. Magruder's story, discussing cover stories as it has been called, I think was in relationship to his FBI interview, not grand jury testimony.

Mr. DASH. What time was that—in June or July?

Mr. LARUE. That would be July, I think a period of around the middle of July.

Mr. DASH. Actually the first time he really testified before the grand jury on the so-called cover story was August 16, 1972. Do you recall, prior to August 16, meetings with Mr. Magruder in which Mr. Magruder indicated what he was going to tell the grand jury?

Mr. LARUE. Yes, sir; I do.

Mr. DASH. Who was present?

Mr. LARUE. Mr. Mitchell, Mr. Mardian, as I recall, Mr. Mitchell, I think Mr. Mardian, Mr. Dean, Mr. Magruder and myself. I recall a later meeting, which Mr.—some of the PR people.

Mr. DASH. You knew then exactly what Mr. Magruder planned to tell the grand jury, did you not?

Mr. LARUE. Yes, sir.

Mr. DASH. And since you have already testified that Mr. Magruder, about a week after the break-in had told you everything he had done, and everything that he has already told this committee, you knew that story was a false story?

Mr. LARUE. Yes, I did.

Mr. DASH. And I take it to your knowledge most of those attending knew that?

Mr. LARUE. Mr. Dash, I can only speak from my own knowledge.

Mr. DASH. Now, did you and Mr. Kalmbach meet again in Mr. Dean's office on September 19, 1972?

Mr. LARUE. As I recall, yes, sir.

Mr. DASH. Will you tell us what happened at that meeting?

Mr. LARUE. Mr. Kalmbach indicated that he wished to get out of it—his role concerning the payments to defendants—that he did not wish to continue this any longer, and he gave an accounting of his activities and payments, not his activities, but he gave us an accounting of the payments to the defendants at that time.

Mr. DASH. And then he was sort of excused or discharged from his responsibilities?

Mr. LARUE. Yes, sir.

Mr. DASH. Will you tell us what happened to the records of his accounting?

Mr. LARUE. Those records were burned.

Mr. DASH. Were they burned right there in the office?

Mr. LARUE. Yes, sir, he had records, as I recall, a very small sheet of paper and they were put in an ash tray and burned.

Mr. DASH. Now, did Mr. Kalmbach have any money left over that he had not expended?

Mr. LARUE. Yes, sir.

Mr. DASH. Did he turn that money over to you?

Mr. LARUE. Yes, sir.

Mr. DASH. Do you know about how much that was?

Mr. LARUE. My recollection is approximately \$30,000.

Mr. DASH. Now, Mr. LaRue, did you then take on the responsibility of carrying out the transfer of funds for legal defense of the defendants and support of families?

Mr. LARUE. As the events occurred, I did. I did not realize at the time I had assumed the role, Mr. Dash.

Mr. DASH. How did it come about after Mr. Kalmbach bowed out for reasons I think he has testified before this committee that you then were the one to undertake this assignment or responsibility?

Mr. LARUE. I was the one who had the cash.

Mr. DASH. You had the money?

Mr. LARUE. Yes, sir.

Mr. DASH. Now, did you, about late September or early October, transfer some money to Mr. Bittman who is——

Mr. VINSON. Excuse me, Mr. Dash, I think the record should show at this time that all of Mr. LaRue's testimony with respect to—I think the record should show at this time that Mr. LaRue's testimony with respect to receipt of moneys and with respect to disbursement of moneys is the result of a reconstruction and in no way can he be precise. He has sat down in hindsight and reconstructed it as best he can.

Mr. DASH. I think we understand that, Mr. Vinson. Thank you for that comment.

Mr. LaRue, with regard, however, to the period late September—early October 1972, did there come a time when you made a transfer of money to Mr. Bittman, the attorney for Mr. Hunt?

Mr. LARUE. Yes, sir.

Mr. DASH. Could you tell us how much you gave Mr. Bittman?

Mr. LARUE. As I recall, \$25,000.

Mr. DASH. Now, could you state how this was carried out? What was the manner in which you contacted Mr. Bittman and made the payment?

Mr. LARUE. I contacted Mr. Bittman, I used the name of Mr. Baker.

Mr. DASH. Mr. Baker?

Mr. LARUE. Baker. I told——

Mr. DASH. How did you call him? Did you call him at his office?

Mr. LARUE. I called him at his office, yes, sir. Told him I was a



friend of Mr. Rivers and that there would be a package delivered to his office shortly.

Mr. DASH. Who asked you to make that call? Who requested that money, do you know?

Mr. LARUE. As I recall, Mr. Dash, this resulted out of a conversation that Mr. Parkinson had with Mr. Bittman which he relayed to Mr. Dean and I, citing the need for some attorney's fees for Mr. Bittman.

Mr. DASH. Did you know from that discussion that Mr. Parkinson had been with Mr. Bittman and then relayed to you and Mr. Dean how much money was to be paid?

Mr. LARUE. Yes, sir.

Mr. DASH. How much was that, did you say?

Mr. LARUE. \$25,000.

Mr. DASH. Then you told Mr. Bittman on the telephone that this package would be delivered?

Mr. LARUE. Yes, sir.

Mr. DASH. How was it delivered?

Mr. LARUE. It was delivered by messenger to his office. It was in a package directed to Mr. Bittman marked personal, confidential.

Mr. DASH. And this was in cash?

Mr. LARUE. Yes, sir.

Mr. DASH. Now, did the messenger who delivered that package to Mr. Bittman know what his assignment was, what was in the package and what he was doing?

Mr. LARUE. Oh, absolutely not.

Mr. DASH. I think to make the record clear, Mr. LaRue, when you made that payment to Mr. Bittman, did you have any understanding as to the reason that payment was being made?

Mr. LARUE. My understanding was that this was legal fees for Mr. Bittman.

Mr. DASH. And did you think that this was being paid for humanitarian reasons?

Mr. LARUE. Mr. Dash, my understanding of the payments of money to the defendants were or is that this money was paid to satisfy commitments that had been made to them by someone I do not know, but had been made, commitments had been made to them at some point in time, and—

Mr. DASH. Commitments made by people who had something to do with authorizing the original activity?

Mr. LARUE. Yes, sir.

Mr. DASH. And that you were really carrying out the responsibility based on those commitments?

Mr. LARUE. Yes, sir.

Mr. DASH. Did it occur to you that if those payments were not made, there may be some embarrassment in the reelection campaign?

Mr. LARUE. This certainly occurred to me, yes, sir.

Mr. DASH. Now, when and where was your next payment to Mr. Bittman?

Mr. LARUE. As I recall, Mr. Dash, this was made in December, the amount approximately \$50,000.

Mr. DASH. Now, who gave the instructions about that payment?

Mr. LARUE. Who gave the instructions?

Mr. DASH. Yes, how did you know to make that payment in December?

Mr. LARUE. There had been a meeting in Mr. Dean's office in which Mr. Parkinson relayed conversations he had had with Mr. Bittman regarding cash needs or money needs for the defendants. As I recall, it was cash needs that would be required for the trial and this \$50,000 was not, it was not a total amount, it was a partial payment on that amount of money.

Mr. DASH. In other words, on both occasions, now, Mr. Parkinson acted as the person conveying the message of the need for the money from Mr. Bittman to Mr. Dean and to you?

Mr. LARUE. Yes, sir.

Mr. DASH. And again, how did you arrange this payment, the same way?

Mr. LARUE. This was arranged in the same way.

Mr. DASH. Did you call and did you again identify yourself as Mr. Baker?

Mr. LARUE. Yes, sir.

Mr. DASH. And again used a messenger?

Mr. LARUE. Yes, sir.

Mr. DASH. And again this messenger knew nothing about what he was doing?

Mr. LARUE. No, sir.

Mr. DASH. Did you make another payment to Mr. Bittman in December?

Mr. LARUE. No, sir, not that I recall.

Mr. DASH. Now, when did you first learn that there was a sum of about \$350,000 in cash at the White House?

Mr. LARUE. Mr. Dash, I cannot tell you specifically.

Mr. DASH. Well, again, when I ask you the date, I am not asking for a specific date.

Mr. LARUE. I understand. It would be in the summer or, say, the early fall of 1972.

Mr. DASH. Who told you about this fund?

Mr. LARUE. Mr. Dash, my best recollection of how I got that knowledge would have been through information on a cash summary sheet which I had come into possession of that reflected a summary of the cash receipts and disbursements to the men.

Mr. DASH. Yes, but is it not true that the specific occasion on which this sum was called to your attention again came about through a discussion with Mr. Mitchell?

Mr. LARUE. Yes, I think I asked Mr. Mitchell if indeed this money had been over at the White House that was indicated on the sheet.

Mr. DASH. And did you seek and receive approval to use some of that money for these activities to pay legal fees?

Mr. LARUE. Yes, I did.

Mr. DASH. Did you know who had control over the money at the White House?

Mr. LARUE. No, I do not.

Mr. DASH. Did you know if Mr. Haldeman had?

Mr. LARUE. No, sir, I did not know that.

Mr. DASH. Did there come a time when you received a sum of money from Mr. Strachan and Mr. Dean in December 1972?

Mr. LARUE. Yes, sir.

Mr. DASH. Do you know how much that sum was?

Mr. LARUE. Approximately \$50,000.

Mr. DASH. And did you know that this was part of the \$350,000 at the White House?

Mr. LARUE. That was my understanding.

Mr. DASH. Now, in January 1973, did you receive an additional sum from Mr. Strachan in the amount of \$280,000?

Mr. LARUE. Yes, sir.

Mr. DASH. What prompted, to your knowledge, such a large transfer of money?

Mr. LARUE. I cannot state specifically, Mr. Dash. I had had a conversation with Mr. Dean regarding the need, at this time, I think, for \$20,000 for one of the attorneys, Mr. Maroulis. I had passed this information on to Mr. Dean. Later, he called me back and told me that they were going to deliver the remaining balance they had over at the White House, which was approximately \$280,000.

Mr. DASH. Would it be fair to say that as you were ongoing in this relationship of paying these fees, that this was going to be a continuing operation, certainly through the trial, and that this fund of money was necessary if you were going to be able to carry out these responsibilities?

Mr. LARUE. That certainly would be my assumption; yes, sir.

Mr. DASH. And is it true that in January 1973, you did pay Mr. Maroulis, counsel for Mr. Liddy, \$20,000?

Mr. LARUE. That is correct.

Mr. DASH. Now, did you receive \$14,000 from a Mr. Tim Babcock in January 1973?

Mr. LARUE. Yes, sir.

Mr. DASH. What was that all about?

Mr. LARUE. I received this money from Mr. Babcock at—I think in Mr. Stans' office. Mr. Stans was present. My understanding, Mr. Dash, was that Mr. Babcock had pledged this money during the campaign, had not gotten around to delivering it, and that he was, you know, fulfilling his pledge.

Mr. DASH. Did this have anything to do with the money or the cash fund you were developing for the legal defense fund?

Mr. LARUE. No, sir.

Mr. DASH. Now, did you make two cash payments, one of \$25,000 and one of \$35,000, to Mr. Bittman, counsel to Mr. Hunt, in January 1973?

Mr. LARUE. Yes, sir.

Mr. DASH. And did that occur in the same way you have already described?

Mr. LARUE. No, sir; those payments were delivered to Mr. Bittman at his home.

Mr. DASH. At his home?

Mr. LARUE. Yes, sir.

Mr. DASH. Who delivered them?

Mr. LARUE. This was another messenger that delivered them.

Mr. DASH. Another messenger?

Mr. LARUE. Yes, sir.

Mr. DASH. Did you arrange that the same way, by phone call?

Mr. LARUE. Yes, sir.

Mr. DASH. Did you again identify yourself as Mr. Baker?

Mr. LARUE. Yes, sir.

Mr. DASH. Did Mr. Bittman always know you as Mr. Baker?

Mr. LARUE. Yes, sir. As far as I know, he never knew who I was.

Mr. DASH. And this was in cash, this \$25,000 and \$35,000—it was all in cash?

Mr. LARUE. Yes, sir.

Mr. DASH. And this came from the \$250,000 or \$350,000—the amount of money that was at the White House?

Mr. LARUE. Yes, sir.

Mr. DASH. Did you attend a meeting in Washington with Mr. Mitchell, Mr. Dean, Mr. Kalmbach on January 19, 1973?

Mr. LARUE. Mr. Dash, I have no recollection of attending that meeting.

Mr. DASH. Did you hear the testimony of Mr. Kalmbach?

Mr. LARUE. Yes, sir.

Mr. DASH. And also the testimony of Mr. Dean?

Mr. LARUE. Yes, sir.

Mr. DASH. And do you recall any of their testimony that a meeting did occur, and both testified to your presence there, and Mr. Mitchell, at which an effort was made to get Mr. Kalmbach to raise funds again?

Mr. LARUE. Mr. Dash, I repeat, I have no recollection of that meeting and it would serve no purpose to—

Mr. DASH. Do you recall any discussion at any time with anybody asking Mr. Kalmbach to come back to the business of raising funds?

Mr. LARUE. No, sir, I do not.

Mr. DASH. Now, did you take any expenses for the work that you were doing, during this period of time, any amount of money?

Mr. LARUE. Yes, sir, there was approximately \$12,000 in expenses taken out of this money during the period of, I would say August through March.

Mr. DASH. Now, when was your last payment to Mr. Bittman, counsel for Mr. Hunt? Do you recall?

Mr. LARUE. Yes, sir, it would be in March.

Mr. DASH. March of 1973?

Mr. LARUE. Yes, sir.

Mr. DASH. Can you tell us how much was involved in that payment?

Mr. LARUE. As I recall, \$75,000.

Mr. DASH. \$75,000?

Mr. LARUE. Yes, sir.

Mr. DASH. I take it that was the largest sum of money that you ever transferred to any of the lawyers?

Mr. LARUE. The largest sum I transferred, yes, sir.

Mr. DASH. What led up to that unusual payment?

Mr. LARUE. I got a phone call from Mr. Dean. Mr. Dean stated that he had—I think he had had a conversation with Mr. O'Brien, in which Mr. O'Brien had told him that there was a need for \$75,000 asserted that by Mr. Bittman for attorneys' fees. I asked Mr. Dean if I should indeed make a delivery of this money. He said that he was out of the money business, that he was no longer going to be involved in it and that he would not, you know, I would have to use my own judgment as to whether to make the payment or not.

Mr. DASH. Did you use your own judgment?

Mr. LARUE. I told Mr. Dean I would not do this, would not make the delivery without somebody else's OK.

Mr. DASH. What did you do, Mr. LaRue?

Mr. LARUE. Mr. Dean suggested I call Mr. Mitchell.

Mr. DASH. Did you?

Mr. LARUE. Yes, sir.

Mr. DASH. What discussion did you have with Mr. Mitchell?

Mr. LARUE. I discussed my telephone conversation with Mr. Dean, told Mr. Mitchell that Mr. Dean no longer was willing or was no longer in the money business. I asked Mr. Mitchell whether I should make this delivery or not.

Mr. DASH. What did he say?

Mr. LARUE. He asked me the purpose of it. I told him my understanding was that it was for attorney's fees. He told me he felt I ought to pay it.

Mr. DASH. When you told him you understood it was attorneys' fees, you also let him know it was attorneys for the particular defendants in the Watergate case?

Mr. LARUE. Mr. Dash, I can't recall that. I was just assuming, I think, it was attorneys' fees for the Watergate defendants.

Mr. DASH. In your discussion, you made an assumption, certainly, that he knew what you were talking about and whose attorneys' fees were involved?

Mr. LARUE. Yes, sir.

Mr. DASH. And he said you ought to go ahead and pay it?

Mr. LARUE. Yes, sir.

Mr. DASH. And did you?

Mr. LARUE. Yes, sir.

Mr. DASH. And you followed the same method?

Mr. LARUE. Same method.

Mr. DASH. That was a bigger packet, though, was it not?

Mr. LARUE. You would be surprised, Mr. Dash, how many \$100 bills you can get in a small package.

Mr. DASH. Good things come in small packages.

Now, when did you go to the U.S. attorney, Mr. LaRue?

By the way, prior to that \$75,000 payment to Mr. Bittman, was not this just shortly before Mr. Hunt was sentenced on March 23?

Mr. LARUE. I think that is correct, yes, sir.

Mr. DASH. Now, there came a time when you did go to the U.S. attorney, is that not true?

Mr. LARUE. Yes, sir.

Mr. DASH. Would you tell us about when that was?

Mr. LARUE. As I recall, Mr. Dash, that would be approximately the middle of April—April 16 or 17.

Mr. DASH. Did you go voluntarily?

Mr. LARUE. Yes, sir.

Mr. DASH. Did you have a discussion with Mr. Dean before you went?

Mr. LARUE. Yes, sir.

Mr. DASH. Could you tell us something about the discussion?

Mr. LARUE. Yes, sir, I went to see—called Mr. Dean—told him I would like to talk to him. I asked him—told him that because of the

press reports concerning the amounts of cash that I had received, I felt sure that I was going to be called before the grand jury, and that obviously, you are going to have to answer a lot of questions, and indicated to him that I felt I had no alternative but to tell the truth, reveal what I had done with this money.

Mr. DASH. What did he say to you, Mr. LaRue?

Mr. LARUE. He indicated that he would probably be in the same shape very shortly and he was going to do the same thing.

Mr. DASH. Did he suggest that you might get counsel?

Mr. LARUE. I think, Mr. Dash, that I asked him some questions, as I recall, whether he thought I had a legal problem, and he suggested that I get counsel; yes, sir.

Mr. DASH. I think it should be made clear that you are not a lawyer, Mr. LaRue, yourself?

Mr. LARUE. No, sir.

Mr. DASH. We have had a number of lawyers in that chair.

Now, at the time you went to the U.S. attorney, did you have in your possession any cash left over from these earlier transactions?

Mr. LARUE. Yes, sir.

Mr. DASH. And could you tell us approximately how much?

Mr. LARUE. Approximately \$113,000.

Mr. DASH. Where was that cash?

Mr. LARUE. At that time, it was in my filing cabinet.

Mr. DASH. Is that where you kept the cash all that time, in your filing cabinet?

Mr. LARUE. Yes, sir.

Mr. DASH. What did you do with that cash?

Mr. LARUE. After I retained counsel, he advised me to put it in the bank, and I did.

Mr. DASH. This is your present counsel Mr. Fred Vinson?

Mr. LARUE. Yes, sir.

Mr. DASH. Now, what happened to that money? Do you still have it in the bank?

Mr. LARUE. No, sir, I returned that money to the Finance Committee To Re-Elect the President. I think this involved two transactions, as I recall.

Mr. DASH. Were these transactions prompted by correspondence from Mr. Stans to you and to your counsel?

Mr. VINSON. Mr. Dash, most of that correspondence was between me and between Mr. Stans' attorney. As I told the committee staff prior to our appearance, I will make duplicates of that correspondence available for the committee so that you can put into the record later if you wish.

Mr. DASH. Thank you, Mr. Vinson. We would appreciate receiving it and, Mr. Chairman, when we do, we would like to have that entered into the record to show the final disposition of these funds.\*

Senator ERVIN. Without objection it will be so entered when the committee receives it.

Mr. DASH. Now, Mr. LaRue, did you ever destroy any records or direct destruction of any reports at the Committee To Re-Elect the President?

Mr. LARUE. I have personally destroyed records, yes, sir.

Mr. DASH. What kind of records?

\*The correspondence was subsequently furnished to the committee and marked exhibit No. 88. See p. 2635.

Mr. LARUE. I destroyed the cash summary, the original or the original copy or whatever it was, the summary sheet of cash which I have referred to—referred to in this testimony. And I was present and participated in the destruction of Mr. Kalmbach's accounting sheet.

Mr. DASH. That was in Mr. Dean's office?

Mr. LARUE. Yes, sir.

Mr. DASH. Did you ever talk with Mr. Bart Porter about his grand jury testimony?

Mr. LARUE. Not that I can recall, no, sir.

Mr. DASH. Do you recall the meetings you had with Mr. Sloan in June of 1972?

Mr. LARUE. I have some recollection of those meetings, yes, sir.

Mr. DASH. Do you ever recall suggesting to Mr. Sloan that he may have some problems concerning the election laws, or the disbursement of money?

Mr. LARUE. Yes, sir.

Mr. DASH. Or that perhaps he might have to plead the fifth amendment?

Mr. LARUE. That is not the context of that discussion as I recall it, Mr. Dash. I think you are referring to the meetings or luncheon I had with Mr. Sloan?

Mr. DASH. Yes, sir.

Mr. LARUE. In which I think he stated that I discussed the possibilities of election law problems and advised him to take the fifth amendment. My recollection of that meeting is that I was discussing with Mr. Sloan the options that were available to him. I pointed out that there were problems with the election laws and my distinct recollection at that time is that he volunteered the fact that he had thought about this himself and that he wanted me to know that he had decided he was going to take the fifth amendment.

Mr. DASH. Do you recall also Mr. Sloan's testimony that he indicated that you played some role in his leaving Washington to go to California?

Mr. LARUE. Yes, sir.

Mr. DASH. At a time when information was first coming out concerning his disbursement?

Mr. LARUE. Yes, sir.

Mr. DASH. Do you recall what role you did play?

Mr. LARUE. Yes, sir. I called Mr.—I received a phone call, as I recall I received a phone call from Mr. Mardian indicating a problem in California of some magnitude, discussion of a problem concerning the California budget and the fact that they did not want to send the money to Washington, they want to keep it out there, which was contrary to our policy because of the reporting procedures, and that he would like perhaps to have Mr. Sloan, if he had a meeting set up and he would perhaps like to have Mr. Sloan attend that meeting and would I call him and urge him to attend it, which I did.

Mr. DASH. And you called him late that night and asked him to get out on the first plane that morning?

Mr. LARUE. I do not recall that conversation being in that context, no, sir.

Mr. DASH. Was it just a coincidence that this problem occurred in California at the time the issues were now coming out?

Mr. LARUE. Was it a coincidence that it occurred?

Mr. DASH. Coincidence. It occurred, as Mr. Sloan testified, on the very day that his secretary had revealed to Mr. Parkinson and Mr. O'Brien the fact that substantial sums of money, which we now know were in fact spent, were paid by Mr. Sloan to Mr. Liddy, after the debriefing of Mr. Sloan's secretary, it was that evening that your call came that he should go to California.

Is it your testimony there was no relationship between the revelation of that information and the need for Mr. Sloan to go to California?

Mr. LARUE. My testimony is that it was my understanding this was a real request and that there was a real problem in California and I understand there was a real meeting held out there.

Mr. DASH. Mr. Chairman, I have no other questions.

Senator ERVIN. Mr. Thompson.

Mr. THOMPSON. Mr. LaRue, at the meeting on March 30, 1972, I believe your testimony is that you really have no firsthand knowledge as to whether or not the plan was approved subsequent to the conversation which you related to us wherein you advised against it; Mr. Mitchell indicated that a decision didn't have to be made at that time, is that correct?

Mr. LARUE. Yes, sir.

Mr. THOMPSON. When did you go down there, would you say, the 22d or 23d?

Mr. LARUE. 22d or 23d of March.

Mr. THOMPSON. Did you go down with the Mitchells?

Mr. LARUE. No, I did not.

Mr. THOMPSON. Did the Mitchells arrive?

Mr. LARUE. They arrived the day before I did and so it would be in this time period.

Mr. THOMPSON. When did Magruder arrive?

Mr. LARUE. Mr. Thompson, I understand that meeting was March 30, so he would have arrived on March 29, the day before.

Mr. THOMPSON. 29th. Do you know when he returned?

Mr. LARUE. My understanding he returned the day after the meeting.

Mr. THOMPSON. The day after?

Mr. LARUE. Yes, sir. So that would be March 31 or, I guess, April 1.

Mr. THOMPSON. Did he leave the premises on the 31st or on the 30th. Did he spend the night there at the Mitchells?

Mr. LARUE. At the house where the Mitchells and I were staying?

Mr. THOMPSON. Yes.

Mr. LARUE. No, sir. He was at the Key Biscayne Hotel as I understand it.

Mr. THOMPSON. All right. What time of day was the discussion that you related to us conducted, in the afternoon, the morning?

Mr. LARUE. This would be in the afternoon because I recall that was the last topic discussed at the meeting.

Mr. THOMPSON. About what time in the afternoon? I realize this is difficult and I know you can only do the best you can.

Mr. LARUE. All right, to the best of my recollection 4 o'clock.

Mr. THOMPSON. About 4 o'clock in the afternoon of March 30?

Mr. LARUE. Yes.



MR. THOMPSON. Did he leave that afternoon? Did he leave the Mitchells' place there that afternoon?

MR. LARUE. Yes, sir.

MR. THOMPSON. About what time did he leave?

MR. LARUE. As I recall shortly after the meeting broke up.

MR. THOMPSON. Shortly after the meeting. Was that an hour would you say?

MR. LARUE. Certainly, yes, sir.

MR. THOMPSON. All right. Was there any time within that hour that you were not in the presence of Mr. Mitchell or that you know Mr. Mitchell and Mr. Magruder spoke alone?

MR. LARUE. Mr. Thompson, there is no time that I know or recall that Mr. Mitchell and Mr. Magruder spoke alone but I certainly could not testify that, you know, that I have knowledge that they did not speak alone. I just—I don't have that kind of recollection of what was going on at that time.

MR. THOMPSON. Then if there was a subsequent discussion or conversation about this plan between the two of them out of your presence it would be your assumption that it would have had to take place within that 1-hour period. Four o'clock to 5 o'clock in the afternoon, assuming that the discussion—

MR. LARUE. Assuming the discussion took place, I would assume it had to have taken place probably in that time frame, yes, sir.

MR. THOMPSON. All right.

You mentioned the fact that Magruder told you sometime later that he had received this telephone call from Colson urging the plan be approved. Mr. Magruder testified about that telephone call.

MR. LARUE. Yes, sir.

MR. THOMPSON. He testified that you were present. Now, your testimony under questioning of Mr. Dash had to do with the reconstruction of this discussion after the break-in about this conversation?

MR. LARUE. This is my recollection.

MR. THOMPSON. Do you not have any independent recollection of having been in the room when Magruder had this telephone conversation?

MR. LARUE. No, sir.

MR. THOMPSON. Did not Magruder turn to you and make a statement to you about that conversation he had with Colson?

MR. LARUE. Not that I can recall, Mr. Thompson. As I have stated earlier, quite frankly, I had no knowledge of the Liddy budget, I would not have known what he was talking about if he had.

MR. THOMPSON. In trying to reconstruct when this must have taken place, if you were, in fact, in the room when this telephone call was made, can you reconstruct in your own mind when it must have taken place? To start with, when did you return from Key Biscayne?

MR. LARUE. It would be in the first week of April, I cannot give you the exact time.

MR. THOMPSON. First week in April?

MR. LARUE. Yes, sir.

MR. THOMPSON. If you can look at it from this basis, after the conversation on the 30th about how many days was it before you returned to Washington?

Mr. LARUE. As I recall, Mr. Thompson, it would be, that would be, on Tuesday or Wednesday.

Mr. THOMPSON. All right, the 30th was on a Thursday. The following Tuesday or Wednesday. All right. What did you do when you returned? Did you resume your duties at the Committee To Re-Elect, did you go into the office the first day you returned, did you take a little more time off? What did you do?

Mr. LARUE. No, I resumed my duties.

Mr. THOMPSON. All right. Do you recall when the first time you saw Magruder was after you returned?

Mr. LARUE. I would assume certainly that day.

Mr. THOMPSON. Let me ask you this. In discussing the matter with Magruder, is it your understanding either from what he told you or from your own independent recollection that this telephone call came before or after March 30?

Mr. LARUE. I cannot relate it to that timeframe but any particular timeframe, but since the call allegedly involved the approval of the Liddy budget I would assume that it came after or——

Mr. THOMPSON. If we are following logic and it did have to do with the Liddy budget it would be before?

Mr. LARUE. It would be prior; yes, prior to the Key Biscayne meeting, yes, sir.

Mr. THOMPSON. All right. Did Magruder tell you whether or not he remembered that it had come before?

Mr. LARUE. I do not recall that kind of discussion, Mr. Thompson.

Mr. THOMPSON. It is not exactly a completely unrelated sequence of events. It looks like in reconstructing this matter if there was outside pressure that perhaps caused him to go down to Key Biscayne, that would be significant. If, on the other hand, this was a conversation which took place 5 or 6 days after the plan had already been put into effect, it would have completely different significance, I would think.

Mr. LARUE [conferring with counsel]. Mr. Thompson, I think my testimony before, to Mr. Dash, was that my recollection of this conversation occurred after—that this conversation occurred after the June 17 break-in. It was related——

Mr. THOMPSON. The conversation with Magruder when you were talking about the phone call?

Mr. LARUE. Yes, sir. In relating to speculation as to who may have been involved and who may have had knowledge of the break-in, and Magruder related this phone call indicating that Mr. Colson had been concerned about Mr. Liddy's budget being approved, and I do not recall any discussion on the time period when the call was made.

Mr. THOMPSON. You do not know whether it came before or after March 30?

Mr. LARUE. No, sir, I do not.

Mr. THOMPSON. This meeting of June 19, there is a conflict of testimony on this point. Mr. Mitchell and Mr. Dean have both testified that there was no discussion, as far as they can remember, of the destruction of any records or burning anything. Magruder has testified and you have testified that such a discussion did take place. Now, the four of you were there, plus Mr. Mardian. Let us talk about that in a little more detail. Did you arrive there together?

Mr. LARUE. As I recall, we did not.

Mr. THOMPSON. Do you recall who arrived first, when you arrived?

Mr. LARUE. I went to the apartment with Mr. Mitchell from the plane. My best recollection is that Mr. Mardian and his wife got off at their apartment, which was a couple of blocks before you got to the Watergate, and so to reconstruct the sequence of events, I would say I arrived with Mr. Mitchell and then later in the evening the other participants arrived, and I could not specifically say in what order and what time period.

Mr. THOMPSON. Do you know who arrived last?

Mr. LARUE. No, sir, I do not.

Mr. THOMPSON. Was there any substantive discussion about what you were to do and the problem that you had before all the participants arrived?

Mr. LARUE. Mr. Thompson, I have a very hazy recollection of that meeting. In fact, were it not for the thing that sticks in my mind, the statement about "you might have a good fire," if it were not for that, I do not think I could recall any details of that meeting at all.

Mr. THOMPSON. Do you recall who was present when that statement was made?

Mr. LARUE. No, I do not.

Mr. THOMPSON. I realize this is a difficult thing for you to have to go back to do, Mr. LaRue, but these are matters, of course, we have to clear up if we can.

Let me ask you this, I believe you said after the break-in, you discussed this matter with Magruder. I take it that the first time you discussed it with him was after you discussed it with Liddy on the 20th, some time after that?

Mr. LARUE. Yes, sir, I am sure that is correct.

Mr. THOMPSON. All right. And Liddy had told you what with regard to who had gotten him involved and who was pushing him?

Mr. LARUE. I don't recall any specific statements or conversations by Liddy of who got him involved. As I recall Liddy's reasoning for the second entry of the break-in, in which they got caught, was that he had been getting pressure from Magruder to improve the surveillance, they weren't getting proper coverage under electronic surveillance.

Mr. THOMPSON. All right, then, the only person he mentioned as having applied any pressure to go back in the second time was Magruder.

Mr. LARUE. That is to the best of my recollection, yes.

Mr. THOMPSON. Did he mention Mr. Mitchell to you?

Mr. LARUE. No, sir, not that I recall.

Mr. THOMPSON. We have had testimony from Mr. McCord that Liddy was telling him that Mr. Mitchell had approved it—I mean that Mitchell was telling Liddy; Liddy was telling McCord that Mitchell was involved and had approved the project, but Liddy did not tell you that?

Mr. LARUE. Not that I can recall, no, sir.

Mr. THOMPSON. All right.

When you talked to Magruder you had this information that Liddy had said Magruder had pushed him. So now you have your conversation with Mr. Magruder, what did he say about it?

Mr. LARUE. I don't think I discussed that with Mr. Magruder, that aspect of it. I don't recall in what time period I had discussions with Mr. Magruder. I think I have testified here that it was, you know within a few days after the break-in, that we had many discussions on the Watergate and what had actually happened. Magruder had related to me that, the same facts that he testified here before this committee.

Mr. THOMPSON. So in effect he said that it was his understanding that Mitchell had approved the plan.

Mr. LARUE. Yes, sir.

Mr. THOMPSON. All right.

And you discussed this as early as June 1972, with Magruder, sometime during the latter part of June?

Mr. LARUE. Yes, sir.

Mr. THOMPSON. And you discussed the matter with Liddy on the 20th of June?

Mr. LARUE. The 20th of June, yes.

Mr. THOMPSON. So by the latter part of June you had in effect two stories, you had Liddy saying that Magruder had pushed him into it, and not saying anything about Mitchell, and you have Mr. Magruder saying that Mitchell approved the plan.

Did you go to Mr. Mitchell with this apparent conflict?

Mr. LARUE. No, sir, I never discussed that with Mr. Mitchell.

Mr. THOMPSON. Could you tell us why?

Mr. LARUE. I don't know of any particular reason why. I just never discussed with Mr. Mitchell the question of whether or not he approved this plan, never discussed it with him.

Mr. THOMPSON. What was your relationship with Mr. Mitchell, was it strictly professional or did you also have a personal relationship?

Mr. LARUE. Had a personal relationship with him.

Mr. THOMPSON. How far back do you and he go in terms of your friendship?

Mr. LARUE. I first met Mr. Mitchell in the latter part of 1966, the early part of 1967.

Mr. THOMPSON. And was it more or less continual from that time on?

Mr. LARUE. Well, it started out as a political relationship and evolved into also a personal relationship over this period of time.

Mr. THOMPSON. Were you a guest in his home from time to time?

Mr. LARUE. Yes, sir.

Mr. THOMPSON. Of course, you have testified that he excluded others or you excluded others from the meeting of March 30 so that the so-called plan could be discussed without the presence of Flemming, anyway I believe you mentioned him.

Mr. LARUE. I don't believe I testified that he excluded others, no, sir, this was my suggestion, Mr. Thompson.

Mr. THOMPSON. That you excluded others?

Mr. LARUE. Yes, sir.

Mr. THOMPSON. All right.

So that you could be present and Mitchell and Magruder could be present when this discussion was taking place. So obviously he placed, I am sure a good deal of confidence in you.

Would that be a correct assumption?

Mr. LARUE. I think you would have to ask Mr. Mitchell that.

Mr. THOMPSON. But you never discussed this matter with him from the latter part of June; never discussed it with him at any time as to whether or not he personally had approved the plan, whether anything had happened after the meeting on March 30.

Mr. LARUE. No, sir.

Mr. THOMPSON. And you didn't have any particular reason for doing that. Were you afraid of the answer that you might get?

Mr. LARUE. I just never discussed it with him, Mr. Thompson.

Mr. THOMPSON. I have no further questions.

Thank you, Mr. LaRue.

Senator ERVIN. Senator Talmadge.

Senator TALMADGE. Mr. LaRue, you look and talk like a responsible citizen. How did you get involved in the crime of obstructing justice? [Laughter.]

Mr. LARUE. Senator, I think I covered that in my opening statement. It was out of a concern for the campaign.

Senator TALMADGE. You walked into it one step at a time?

Mr. LARUE. Yes, sir.

Senator TALMADGE. Was it unsuspecting or conscious?

Mr. LARUE. At the time this was evolving, Senator Talmadge, quite frankly, I didn't consider that aspect of it. I was concerned with the campaign.

Senator TALMADGE. Now, Mr. Kalmbach testified that he received instructions on the distribution of the funds involved in the coverup, bail, lawyers' fees, support, and one thing and another of these defendants from you and Mr. Dean. Is that a correct statement?

Mr. LARUE. Senator, I would—my understanding of this or my recollection of my conversations with Mr. Kalmbach would frankly be a sort of mutual understanding we would reach, either with me or Mr. Dean and I.

Senator TALMADGE. Did you help plan the payments?

Mr. LARUE. Pardon me?

Senator TALMADGE. Did you help plan the payments?

Mr. LARUE. I am sorry, I still didn't hear you.

Senator TALMADGE. Did you help plan the payments to these defendants?

Mr. LARUE. Did I help plan the payments?

Senator TALMADGE. Yes.

Mr. LARUE. Certainly, I attended the meetings where these payments were discussed and where the payments were agreed upon; yes, sir.

Senator TALMADGE. What you are saying, then, is it was a mutual agreement from you and Mr. Dean to Mr. Kalmbach, is that a fact?

Mr. LARUE. That would be my understanding of these meetings and my telephone conversations with Mr. Kalmbach. He would report that there was a, you know, a need for money and do you think we ought to pay these, and I would say, it certainly seems appropriate to me and the payments would be made.

Senator TALMADGE. And your testimony is Mr. Kalmbach himself helped determine the amounts, is that correct?

Mr. LARUE. Senator, I think primarily, the amounts were determined by the requirements, as I recall. In other words, there would be a request for an amount of money for maintenance and legal expenses and the question would be whether this payment should be made and certainly, I participated in those decisions; yes, sir.

Senator TALMADGE. Now, Mr. Ulasewicz testified this morning that the demands became greater and greater and finally took the form of demands and probably blackmail. Did you so construe it?

Mr. LARUE. No, sir, I did not.

Senator TALMADGE. You didn't think blackmail was involved?

Mr. LARUE. No, sir.

Senator TALMADGE. Now, were these payments made in the form of what you consider a moral obligation or to maintain the silence of the defendants?

Mr. LARUE. As I stated, Senator, my understanding of these payments is that they were paid to fulfill commitments that had been made.

Senator TALMADGE. Who made the commitments?

Mr. LARUE. I have no idea.

Senator TALMADGE. Could a commitment be made and you executing and planning and determining the amount without you knowing who made it or why or for what reason?

Mr. LARUE. My understanding was that the commitments included a maintenance filing, a filing for maintenance of these peoples' families. It included payments of bail and attorneys' fees.

Senator TALMADGE. Where did you get the knowledge of the commitments?

Mr. LARUE. To the best of my recollection, Senator, the first knowledge I got of this would be the conversations with Gordon Liddy on June 20.

Senator TALMADGE. Gordon Liddy told you someone had made such commitments?

Mr. LARUE. Yes.

Senator TALMADGE. Did he tell you who?

Mr. LARUE. No, sir, he did not.

Senator TALMADGE. Did you take his word for it?

Mr. LARUE. Yes, sir, I guess I did.

Senator TALMADGE. Had he not been discharged from the committee at that time?

Mr. LARUE. No, sir, he had not.

Senator TALMADGE. When was he discharged?

Mr. LARUE. I don't know the specific date, Senator. I think around July 1.

Senator TALMADGE. It was immediately after the break-in?

Mr. LARUE. Pardon me?

Senator TALMADGE. Immediately after the break-in?

Mr. LARUE. Well, several days after the break-in.

Senator TALMADGE. He was the first man discharged, was he not?

Mr. LARUE. Yes, sir.

Senator TALMADGE. And these payments were made long after that date, were they not?

Mr. LARUE. Yes, sir.

Senator TALMADGE. And he didn't tell you the source of the commitments?

Mr. LARUE. No, sir.

Senator TALMADGE. And he was a discharged man and he didn't tell you who made the commitments or the sum and you were paying them on the validity of some unknown commitment that you knew nothing about. Is that an accurate statement?

Mr. LARUE. Senator, I don't think I was determining the amounts. The amounts, for instance, the attorneys' fees were determined by an arrangement, I guess, between the defendants and their attorneys. This is an amount that I will say, you know, that I had no control over.

In my original conversation with Kalmbach, it was my understanding that the purpose of the—the original purpose of the contact with the defendants was to determine what the requirements were for the maintenance of their families and what the attorneys' fees were and what amounts were going to be necessary for their bail.

Senator TALMADGE. How did you know where the commitments began and ended?

Mr. LARUE. How did I know where they began and ended?

Senator TALMADGE. Yes, sir.

Mr. LARUE. Senator, I don't know where they began or ended.

Senator TALMADGE. You didn't assume that anyone who made a demand on you for attorney fees and bond and bail and living expenses was valid, did you?

Mr. LARUE. Senator, I assumed that someone had authorized or had engaged these people to undertake this operation, and I assume——

Senator TALMADGE. What operation?

Mr. LARUE. The break-in of the——

Senator TALMADGE. Who did you think did that?

Mr. LARUE. Senator, that calls for certainly a rather broad assumption on my part.

Senator TALMADGE. You made assumptions and paid out hundreds of thousands of dollars on some vague commitment. I am trying to find out the source of that commitment.

Mr. LARUE. I can understand that, Senator, but I do not know the source of that commitment.

Senator TALMADGE. Now, you are a responsible businessman. I believe you stated you made your living from real estate. You know it takes two people to make a contract, don't you?

Mr. LARUE. Yes, sir, I understand that.

Senator TALMADGE. You don't think you could do it unilaterally, do you?

Mr. LARUE. No, sir.

Senator TALMADGE. Weren't you acting unilaterally in that matter, without knowing the source, the sums, the amount, who made the commitment or anything about it, just some vague, hazy idea that someone, somewhere, made a commitment unknown to you and you were busy executing it. That is not the way you do business, is it?

Mr. LARUE. This is what happened, Senator.

Senator TALMADGE. And you stand on that as a responsible businessman?

Mr. LARUE. Senator, I stand on the fact that I do not know who made these commitments, no, sir.

Senator TALMADGE. But you thought they ought to be carried out regardless of who made them and under what conditions?

Mr. LARUE. I thought that what?

Senator TALMADGE. You thought they ought to be carried out regardless of who made them and totally unknown to you?

Mr. LARUE. I thought they ought to be carried out because of the consequences if they were not.

Senator TALMADGE. Did you know anything about the break-in prior thereto?

Mr. LARUE. Pardon me, I am sorry.

Senator TALMADGE. Did you know the break-in was planned prior to that time? Did you know that Liddy and his associates were going to break into the Watergate and commit burglary?

Mr. LARUE. No, sir.

Senator TALMADGE. You did not?

Mr. LARUE. No, sir, I did not.

Senator TALMADGE. Did Mr. Mitchell know?

Mr. LARUE. Not to my knowledge, no, sir.

Senator TALMADGE. I believe you met with Mr. Liddy on June 20.

Mr. LARUE. Yes, sir.

Senator TALMADGE. And you discussed various things. Did Mr. Liddy tell you at that time that he had shredded a number of documents?

Mr. LARUE. Yes, sir.

Senator TALMADGE. Did he tell you the nature of those documents?

Mr. LARUE. He indicated that they were documents relating to the break-in, yes, sir.

Senator TALMADGE. And they were in the files of the Committee To Re-Elect the President?

Mr. LARUE. They were in—my understanding is they were in his files, yes, sir.

Senator TALMADGE. Now, I believe Mr. Mardian was present at that same conversation, was he not?

Mr. LARUE. Yes, sir.

Senator TALMADGE. What was his reaction to this Liddy story that—

Mr. LARUE. What was Mr. Mardian's reaction?

Senator TALMADGE. Yes.

Mr. LARUE. I think Mr. Mardian was—shared the same opinion I did. He was rather shocked by the revelations of what had been known, became known as the White House horrors, and I do not think he shared any enthusiasm that the investigation would eventually lead to Mr. Liddy.

Senator TALMADGE. Did Mr. Liddy tell you at that time about the Ellsberg psychiatrist break-in?

Mr. LARUE. Yes, sir.

Senator TALMADGE. Now, had not Mr. Mardian been in charge of the Internal Security Division of the Justice Department that was in charge of prosecuting the *Ellsberg* case?

Mr. LARUE. I do not know who was in charge of prosecuting it, Senator. Mr. Mardian, prior to his coming to the committee, was assistant attorney general in charge of Internal Security, yes, sir.



Senator TALMADGE. You were not surprised, then, by Mr. Mardian's reaction under the circumstances?

Mr. LARUE. No, sir.

Senator TALMADGE. Had not Mr. Mardian been in charge of guiding the Kleindienst nomination through the Judiciary Committee?

Mr. LARUE. Senator, not to my knowledge. I do not think Mr. Mardian was in charge of that, no, sir.

Senator TALMADGE. You were not familiar with that?

Did you have a meeting with Mr. Mitchell on June 28, 1972, which involved a general discussion regarding the commitments that were to be made or had been made to the defendants?

Mr. LARUE. Senator, during this time period, I can see from that chart up there, I had meetings with Mr. Mitchell virtually every day, sometimes two or three times a day. Various people were present at different meetings. I, in all candor, cannot specifically or sit here and sort out those meetings and specify what happened on any particular meeting. I am sorry, but I just cannot do that.

Senator TALMADGE. You do not know whether he was the source of those elusive commitments that you commented on a moment ago or not, then, do you?

Mr. LARUE. No, sir; I do not know.

Senator TALMADGE. And you do not know who might have been the source, then?

Mr. LARUE. No, sir.

Senator TALMADGE. Mr. Sloan testified when he was before the committee, that it was his understanding that you were in charge of the Watergate matter at the Committee for the Re-Election of the President. Is that a fact?

Mr. LARUE. Not to my knowledge, no, sir.

Senator TALMADGE. You deny that?

Mr. LARUE. Yes, sir. As I recall, Mr. Mitchell's testimony is contrary to that.

Senator TALMADGE. Did you investigate it in any way?

Mr. LARUE. I participated in—I do not know if you can call it an investigation, Senator, but I participated in activities that were aimed at determining several facts, some of these relating to the civil litigation before the committee at that time, yes, sir.

Senator TALMADGE. What conclusions did you reach as a result of the investigation?

Mr. LARUE. My conclusions, Senator, are that certainly, the break-in or the electronic surveillance that was conducted at the Democratic National Committee was approved at some high level, either of the Committee To Re-Elect the President or the White House, that this was financed by moneys from the reelection committee, and that—

Senator TALMADGE. Did you report that conclusion to higher authority?

Mr. LARUE. No, sir, I did not.

Senator TALMADGE. As an aide and confidante and friend to the President of the United States, did you not think that was an appropriate time to do so?

Mr. LARUE. That never occurred to me, Senator, no, sir.

Senator TALMADGE. Why not? Did you not think it would be—

Mr. LARUE. I think quite frankly, Senator, this would be—such

a decision and such an action would be best carried out by someone closer in contact, a closer relationship with the President than I ever had.

Senator TALMADGE. Did you not think it was a source of threat and peril to the President and as a friend and associate and confidante, you should have informed him?

Mr. LARUE. Senator, I considered the Watergate incident a threat to the election and I have stated that I participated in the coverup of that. I did that knowingly, I did it to try, in my opinion, to protect the election of the President.

Senator TALMADGE. Was it your purpose, then, to conceal that fact from the President?

Mr. LARUE. I never thought of it in the terms of concealing it from the President, Senator Talmadge. I thought of it in terms of concealing it, I guess, from the public.

Senator TALMADGE. Mr. Mitchell, the former Attorney General, testified that it was the policy to deliberately conceal it from the President. Were you involved in that policy also?

Mr. LARUE. No, sir, I was not.

Senator TALMADGE. Did you contact Mr. Patrick Gray on or about June 17 or 18, who was then Acting Director of the Federal Bureau of Investigation?

Mr. LARUE. Yes, sir, I did.

Senator TALMADGE. What did you talk with him about?

Mr. LARUE. This was a meeting on June 18, as I recall, at Newport Beach, Calif. Mr. Gray happened to be at the same hotel we were staying in and I was informed of this fact by one of the agents.

I met Mr. Gray and his wife at the swimming pool and we visited for approximately 30-45 minutes. I am sure Watergate was discussed. This was not the purpose of my meeting Mr. Gray. Both Mr. and Mrs. Gray are friends of mine and it was more of a social meeting than anything else.

Senator TALMADGE. You did not report it to Mr. Gray nor request the facts from Mr. Gray? The contact with him was purely social; is that what you are saying?

Mr. LARUE. Yes, sir.

Senator TALMADGE. Thank you, Mr. LaRue.

Thank you, Mr. Chairman. I have no further questions.

Senator ERVIN. Senator Gurney.

Senator GURNEY. Just a few questions, Mr. LaRue. Again, back to California and Mr. Mitchell's reaction when he received the news about the Watergate break-in. Were you present when this news was received?

Mr. LARUE. By Mr. Mitchell?

Senator GURNEY. Yes.

Mr. LARUE. Yes, sir.

Senator GURNEY. Did you give it to him?

Mr. LARUE. Yes, sir.

Senator GURNEY. What was his reaction?

Mr. LARUE. As I stated, I think Mr. Mitchell expressed some surprise and as I recall his remark, "that is incredible."

Senator GURNEY. What was your reaction to his reaction? In view of the fact—

Mr. LARUE. Pardon me, Senator, I do not recall any specific reaction. I have been with Mr. Mitchell on many occasions when events were reported to him and he is just not a man who, quite frankly, tends to express much reaction one way or another.

Senator GURNEY. Your testimony, as I understand it, was that this Liddy plan was brought up again at Key Biscayne. That is right, is it not?

Mr. LARUE. Yes, sir.

Senator GURNEY. Did you ever discuss it with Mr. Mitchell at any time between Key Biscayne and the day after the break-in? Between those periods of time. Did the conversation ever come up about your surveillance—

Mr. LARUE. Not that I can recall, sir.

Senator GURNEY [continuing]. Of the Democratic National Committee headquarters?

Mr. LARUE. No, sir.

Senator GURNEY. Again, I go back to when you first heard the news. Did it flash back to you that this plan had been brought up before at Key Biscayne?

Mr. LARUE. That it had been brought up before in Key Biscayne? Yes, sir, it did.

Senator GURNEY. Did you mention that to Mr. Mitchell at the time or report it to him?

Mr. LARUE. No, sir.

Senator GURNEY. Nothing was said in the nature of, John, do you suppose that nut has gone on with those plans?

Mr. LARUE. No, sir.

Senator GURNEY. No discussion at all?

Mr. LARUE. No, sir.

Senator GURNEY. Let us go to these moneys that were paid to Mr. Bittman, Hunt's attorney. How much did you pay to him altogether?

Mr. LARUE. Excuse me just one second, Senator. Let me add some figures.

Senator GURNEY. Was it \$210,000?

Mr. LARUE. \$205,000—\$210,000, correct.

Senator GURNEY. That was my calculation, too. I added them rather hurriedly here.

Now, upon whose instructions was that money paid to Mr. Bittman?

Mr. LARUE. The \$210,000?

Senator GURNEY. Yes.

Mr. LARUE. Except for the last payment, Senator, of \$75,000, this money, the payments of this money were discussed with Mr. Dean.

Senator GURNEY. In other words, Mr. Dean gave you instructions to pay the—and I am running down through these in consecutive order—the \$25,000, the \$50,000, the \$25,000, the \$35,000?

Mr. LARUE. Yes, sir.

Senator GURNEY. Those are the amounts prior to the last one?

Mr. LARUE. Yes, sir.

Senator GURNEY. And what about the last \$75,000?

Mr. LARUE. This came from Mr. Mitchell.

Senator GURNEY. Now, then, what was your understanding Mr. Bittman was doing with all this? Was he Mr. Hunt's attorney, was that it?

Mr. LARUE. Yes, sir, he was Mr. Hunts attorney. That is my understanding.

Senator GURNEY. Is that not a rather large sum of money to pay a lawyer who represents a client who finally pleaded guilty—did he not?

Mr. LARUE. Senator, my understanding is that not all of this money was for his attorneys fees but represented some money that was also going to Mr. Hunt.

Senator GURNEY. Do you know how much was going to Mr. Hunt?

Mr. LARUE. No, sir, because I do not know specifically what Mr. Bittman's attorney fees were. So I cannot reconcile that.

Senator GURNEY. How did you know that moneys were going to Mr. Hunt?

Mr. LARUE. In the conversations that Mr. O'Brien or Mr. Parkinson had with Mr. Bittman, I think there were indications that part of this was for attorney fees and part of it was necessarily necessary for maintenance of families. Part of this—at one point part of this money, it was my understanding, was going to the Cubans, the defendants, Cuban defendants, in Watergate.

Senator GURNEY. And this information that part of it was for attorney fees, part of it for Hunt's personal expenses, and part of it to the Cubans, this information came from, you say, O'Brien and Parkinson.

Mr. LARUE. It came to me through them, yes, sir.

Senator GURNEY. Would you describe more fully how it came to you?

Mr. LARUE. Well, my understanding, Senator, is that they had conversations with Mr. Bittman who was Mr. Hunt's attorney and that he would, you know, relay these requirements or needs and, in turn, Mr. Parkinson or Mr. O'Brien would relay this to me or to Mr. Dean and I jointly or maybe on an occasion or two to Mr. Dean himself who would relay it to me.

Senator GURNEY. Was any accounting ever made at any time by anyone?

Mr. LARUE. Yes, sir. There was an accounting made in September 1972 by Mr. Kalmbach when he removed himself from this operation.

Senator GURNEY. But I mean a breakdown of where the money was going that you were furnishing Mr. Bittman?

Mr. LARUE. No, sir; no accounting was ever furnished me.

Senator GURNEY. Were you aware of the large amounts of cash that were being transferred from Kalmbach, Ulasewicz, to these defendants?

Mr. LARUE. Yes, sir.

Senator GURNEY. At the same time?

Mr. LARUE. At the same time I was—

Senator GURNEY. Yes, during the same timeframe.

Mr. LARUE. My understanding, Senator, is that my transfers in cash came after the Kalmbach-Ulasewicz transfers. In other words, when Mr. Kalmbach was in this operation up until September and after he got out then I, in effect, became involved in it.

Senator GURNEY. Had you known how much money had been transferred in the Kalmbach transactions?

Mr. LARUE. Pardon me, Senator?

Senator GURNEY. Did you know how much money had been transferred to the Watergate defendants in the Kalmbach transactions?

Mr. LARUE. My understanding, Senator, approximately \$200,000.

Senator GURNEY. Were you aware of that when you started to make your transfers?

Mr. LARUE. Yes, sir; because Mr. Kalmbach had given us an accounting in September.

Senator GURNEY. Didn't anybody ever raise a question that this seemed like a lot of money at some point along the way?

Mr. LARUE. Senator, I recall discussions that, yes, it seemed to be quite a bit of money, and we were also experiencing a shortage of money.

Senator GURNEY. These are inflationary times but my, my goodness sakes, that amount is so large that it seems astronomical.

Didn't anybody really question at any time where all this money was going?

Mr. LARUE. Not to my knowledge, Senator, no.

Senator GURNEY. Did you ever have any doubts about it at any time?

Mr. LARUE. That the money was going to the proper places?

Senator GURNEY. In that perhaps it was too much?

Mr. LARUE. Senator, I didn't question the amounts. These amounts were, you know they were, there were seven defendants, I think all of them had, at least most of them had, their own counsel. I know from my experience with my counsel that this is not, this runs up pretty quickly. [Laughter.]

Senator GURNEY. Well, I am not trying to beat a dead horse but I must say, looking over all these sums, it does strike me that somebody at some time ought to have said, "Maybe we are being taken for a ride of some sort here with all this money."

Mr. LARUE. Well, Senator, I don't recall anyone discussing that with me.

Senator GURNEY. Going to California again, did you have a conversation with Mr. Pat Gray who was then acting head of the FBI?

Mr. LARUE. Yes, sir.

Senator GURNEY. Would you recount that for the committee?

Mr. LARUE. Well, Senator, I couldn't recount the conversation because as I have stated previously I think I spent 30 minutes or 45 minutes with Mr. and Mrs. Gray at the swimming pool at the Newport Beach Hotel, we discussed a wide range of subjects and the Watergate was discussed.

Senator GURNEY. Perhaps you have covered this before because I didn't come in in the early part of your testimony.

Mr. LARUE. Yes, I have.

Senator GURNEY. I don't want to go over it again then.

Just one final thing then, was there any instruction by Mr. Mitchell to you to contact the Attorney General, Mr. Kleindienst, again in California?

Mr. LARUE. Yes, sir.

Senator GURNEY. What were those instructions? Why did he give those to you? What did he ask you to do?

Mr. LARUE. My recollection of those instructions, Senator, was that someone should call back to Mr. Liddy to have him contact Mr. Klein-

dienst, have Mr. Kleindienst contact Chief Wilson and see what details or facts could be ascertained about the break-in.

Senator GURNEY. There was an instruction to get information.

Mr. LARUE. Yes, sir.

Senator GURNEY. About the break-in?

Mr. LARUE. Yes, sir.

Senator GURNEY. And that is all it was?

Mr. LARUE. That is my recollection; yes, sir.

Senator GURNEY. I don't have any further questions, Mr. Chairman.

Senator ERVIN. Senator Montoya.

Senator MONTOYA. Thank you, Mr. Chairman.

Mr. LaRue, during this time you were working at the Committee To Re-Elect the President, were you not?

Mr. LARUE. Yes, sir.

Senator MONTOYA. What was your position there, what was your job assignment?

Mr. LARUE. Senator, it was special assistant to the campaign director.

Senator MONTOYA. What were your duties?

Mr. LARUE. My duties were of an advisory nature, consulting nature, literally. I would say, on all aspects of the campaign.

Senator MONTOYA. Did you have occasion to see all those people who were coming in to see Mr. Mitchell?

Mr. LARUE. Pardon me?

Senator MONTOYA. Did you have occasion to see most of the people who would come in to see Mr. Mitchell?

Mr. LARUE. No; I would not say I had occasion to see most of the people. I certainly saw some of the people that came to see Mr. Mitchell, sometimes I sat in on meetings.

Senator MONTOYA. Well, Mr. Strachan would come into the CRP quite often, would he not?

Mr. LARUE. Mr. Strachan, yes, sir.

Senator MONTOYA. Yes. Did you have occasion to speak to him frequently?

Mr. LARUE. Not frequently. In fact very infrequently. Occasionally Mr. Strachan would come by my office and visit basically to get my ideas and views on how the campaign was progressing.

Senator MONTOYA. Did he check with you on information that should go to the White House?

Mr. LARUE. No, sir.

Senator MONTOYA. Wasn't he sort of liaison between the CRP and the White House?

Mr. LARUE. That is my understanding, yes, sir.

Senator MONTOYA. Did you have an understanding that the man in the White House with whom he dealt could be Mr. Ehrlichman?

Mr. LARUE. No, sir. My understanding was he dealt with Mr. Halde-man.

Senator MONTOYA. All right. Now, how often would you say Mr. Strachan was at the CRP?

Mr. LARUE. Senator, this would be hard for me to say. I saw Mr. Strachan maybe once a week over at the CRP, and I think Mr. Strachan attended our budget meetings and that I had certainly no daily contact with Mr. Strachan, an occasional contact with him.

Senator MONTROYA. Did he attend any of the policy meetings at the CRP?

Mr. LARUE. Senator, quite frankly, I can't recall any policy meetings. We had—I think the closest thing to policy meetings would be budget meetings which Mr. Strachan attended, yes, sir.

Senator MONTROYA. Would you say that Mr. Mitchell did attend most of the budget meetings?

Mr. LARUE. While he was campaign director, yes, sir.

Senator MONTROYA. And who formulated the budget presentation in those meetings?

Mr. LARUE. I think the presentation was formulated by Mr. Odle or the data, the raw data, the agenda was formulated by Mr. Odle is my understanding.

Senator MONTROYA. Did Mr. Mitchell participate in those budget meetings?

Mr. LARUE. Yes, sir.

Senator MONTROYA. Do you recall any discussion at the budget meetings or any other place of the CRP with respect to any disbursements to Mr. Liddy?

Mr. LARUE. No, sir.

Senator MONTROYA. Did you know of any disbursements to Mr. Liddy?

Mr. LARUE. Not before January 17, no, sir.

Senator MONTROYA. Not before January 17 of what year?

Mr. LARUE. 1972.

Senator MONTROYA. 1972.

Then subsequent to January 17, 1972, did you know of any disbursements?

Mr. LARUE. I learned there had been cash disbursements to Mr. Liddy, yes, sir.

Senator MONTROYA. Did you know the amounts?

Mr. LARUE. My understanding it was approximately \$199,000.

Senator MONTROYA. When did you first know of the size of these amounts?

Mr. LARUE. Senator, as I recall, I got this figure from Mr. Sloan, I can't pin down a time period but I would say in the latter part of June.

Senator MONTROYA. Did he, did Mr. Sloan, mention to you any concern about the size of these amounts before June and after January 17?

Mr. LARUE. Senator, I am not sure—did Mr. Sloan indicate concern before June?

Senator MONTROYA. Yes.

Mr. LARUE. I never discussed it with him, Senator, before the June 17 break-in. My discussions were after that.

Senator MONTROYA. Did you discuss any of these disbursements with Mr. Mitchell?

Mr. LARUE. Yes, sir, I am sure I did. We were having a constant discussion trying to determine the amount of money that had actually been given to Mr. Sloan—I mean that Mr. Sloan had given to Mr. Liddy.

Senator MONTROYA. All right. In what context did you have these discussions with Mr. Mitchell?

Mr. LARUE. This would be after the break-in, Senator, in which there was a conversation or where I had conversation with Mr. Sloan

attempting to determine the amount of money that had been given to Mr. Liddy, and when I determined this amount of money I think I reported that to Mr. Mitchell.

Senator MONTOYA. But you are speaking of the period after June 17?

Mr. LARUE. After the break-in, yes, sir.

Senator MONTOYA. Did you have any discussion with Mr. Mitchell between January 17 or let us put it a little further, between April 1 and June 17 with respect to any disbursements to Mr. Liddy by Mr. Sloan?

Mr. LARUE. No, sir.

Senator MONTOYA. You did not.

Did you—but you did know that these disbursements were being made by Mr. Sloan to Mr. Liddy?

Mr. LARUE. No, sir, I did not.

Senator MONTOYA. Did you during this particular period converse with Mr. Magruder with respect to any disbursements to Mr. Liddy?

Mr. LARUE. No, sir, not that I can recall.

Mr. VINSON. Senator, may I interrupt. What period are you talking about?

Senator MONTOYA. Between the time that Mr. Mitchell took over, April 1 and June 17.

Mr. LARUE. No, sir, not that I can recall.

Senator MONTOYA. Now let us go to the meeting immediately after the break-in which occurred, I understand, in Mr. Mitchell's apartment on June 19, was that correct?

Mr. LARUE. Yes, sir.

Senator MONTOYA. Now, present at that meeting were you, Mr. Mardian, and who else?

Mr. LARUE. Mr. Magruder and Mr. Dean.

Senator MONTOYA. All right. Now, what was the main thrust of the discussion this particular evening?

Mr. LARUE. Senator, I can only assume that we had probably a wide discussion or a discussion of the numerous problems that were—we had encountered because of the Watergate break-in. I think I stated previously that I had a very hazy recollection of that meeting and specifically can only recall the discussion of the documents which Mr. Magruder had and the reference to the fact that he ought to have the fire.

Senator MONTOYA. Well, would you say that this meeting was a meeting of self-confession on the part of those present?

Mr. LARUE. No, sir.

Senator MONTOYA. As to what part they had played in this and what they knew?

Mr. LARUE. No, sir.

Senator MONTOYA. Well, what was it then? I understand that at this meeting you presented the information which Mr. Liddy had already imparted to someone?

Mr. LARUE. No, sir. That happened, that meeting with Mr. Liddy happened on June 20, the day after this meeting.

Senator MONTOYA. And then it was subsequent to the meeting with Mr. Liddy that—and, that another meeting was arranged at your apartment, is that correct? This was on June 20?



Mr. LARUE. The only meeting, Senator, that occurred that I had, that I can recall with Mr. Liddy would be on June 20 in my apartment. This was not, to my knowledge—this meeting was not set up—discussed at the June 19 meeting.

Senator MONTROYA. All right.

Now, on June 20, after you people met, what was discussed and what plan evolved from this particular meeting?

Mr. LARUE. Senator, could you be more specific about which meeting you are talking about? Are you talking about the meeting with Liddy or the meeting that Mardian and I had with Mr. Mitchell?

Senator MONTROYA. The meeting with—between you or among you—Mardian and Liddy?

Mr. LARUE. On June 20. Well, the topic discussion was Mr. Liddy's involvement in the Watergate break-in. I don't know of any—we discussed no plan of action.

Senator MONTROYA. Well, did you report any of the results of this meeting to Mr. Mitchell?

Mr. LARUE. Yes, sir.

Senator MONTROYA. How soon after?

Mr. LARUE. As I recall, that same day.

Senator MONTROYA. Immediately. Do you recall that Mr. Mitchell on that same evening at the hour of 6:08, I believe, called the President?

Mr. LARUE. Senator, I do not recall Mr. Mitchell calling the President. That is a possibility. I do not recall it, no, sir.

Senator MONTROYA. Well, I refer you now to the chart here, on the evening of June 20, at the hour of 6:08, it shows a telephone call to the President. Now, were you aware of this call?

Mr. LARUE. No, Senator, I cannot recall the call. Is that a call to the President or from the President?

Senator MONTROYA. It was a call to the President from Mr. Mitchell.

Mr. LARUE. I cannot recall the call, no, sir.

Senator MONTROYA. How late were you with Mr. Mitchell this particular evening?

Mr. LARUE. Senator, to the best of my recollection, probably until 10 o'clock.

Senator MONTROYA. Now, Mr. LaRue, during the course of these meetings there was no manifestation, or at least you have not related it, no manifestation of surprise on the part of any of you, you were merely trying to plan for the future because you knew by then that people in the CRP were involved. How did you arrive at this conclusion?

Mr. LARUE. That people in the CRP were involved?

Senator MONTROYA. Yes.

Mr. LARUE. Well, obviously the first fact, Senator, that Mr. McCord had been arrested in the DNC; Mr. Liddy's account of his involvement to Mr. Mardian and I; my conversations with Mr. Magruder.

Senator MONTROYA. Now, did Mr. Magruder relate to you subsequent to the—immediately subsequent to the first call in California, as to Mr. Liddy's involvement in this particular thing?

Mr. LARUE. No, sir, not at that time, as I recall. There was no discussion of Mr. Liddy's involvement.

Senator MONTROYA. Did you, before you left California, know of this particular involvement?

Mr. LARUE. No, sir, I did not.

Senator MONTTOYA. Then, what was the basis for Mr. Mitchell's statement in California before he left that—when he said that "McCord and the other four men were not operating either in our behalf or with our consent." He issued a press statement in California before he left to that effect.

Mr. LARUE. I could only assume, Senator, that this was Mr. Mitchell's understanding of the facts.

Senator MONTTOYA. Well, he must have had some information, because I understand that there were some conferences in the hotel with respect to the possibility that there might be involvement on the part of the CRP in the Watergate affair. You agree with that?

Mr. LARUE. I do not recall any conferences in the hotel to that effect, no, sir.

Senator MONTTOYA. I understand Mr. Porter testified to that effect in previous testimony before this committee.

Mr. LARUE. Senator, that may be. I can recall attending no such conferences. There was, I am sure, all sorts of speculation, but I can recall no conferences in the hotel where I attended, regarding involvement of the CRP other than Mr. McCord's involvement was discussed.

Senator MONTTOYA. But you did tell Mr. Mitchell about the Watergate break-in, did you not?

Mr. LARUE. Yes, sir.

Senator MONTTOYA. You pulled him outside of a conference at the hotel and told him?

Mr. LARUE. Yes, sir.

Senator MONTTOYA. And there was no subsequent conference with respect to this?

Mr. LARUE. No, sir, there was not, other than a brief conference at which Mr. Mitchell requested that a call be made to Mr. Kleindienst.

Senator MONTTOYA. Then, why would Mr. Mitchell make a call to or arrange for a call to be made to Mr. Kleindienst if at that time none of you knew that the CRP was involved?

Mr. LARUE. Obviously, Senator, we had an involvement to the extent that Mr. McCord had been caught on the premises in the DNC.

Senator MONTTOYA. Yes, but Mr. Mitchell issued a statement that McCord was connected with his own private company and that he did contract work for different people in Washington. And in that same breath, he stated that McCord and the other four men were not operating either in our behalf or with our consent. So why would he do that?

Mr. LARUE. Why would he make that statement?

Senator MONTTOYA. Yes.

Mr. LARUE. I assume Mr. Mitchell assumed that those were the facts.

Senator MONTTOYA. Well, would you say Mr. Mitchell was right?

Mr. LARUE. I would say at that time he was right in assuming those facts, yes, sir.

Senator MONTTOYA. And after that time, would you say he was wrong?

Mr. LARUE. Yes, sir.

Senator MONTROYA. Now, you received \$40,000 to \$41,000 in early July from Mr. Stans through Mr. Mardian, did you not?

Mr. LARUE. Yes, sir.

Senator MONTROYA. Did anybody explain to you why this money was being entrusted to you?

Mr. LARUE. My understanding, Senator, was that the \$41,000 for Mr. Sloan and roughly \$40,000 for Mr. Stans, the cash balance on hand at the committee and that it was the desire to get this money out of the campaign and that it was being turned over to me to keep.

Senator MONTROYA. Then you received subsequent to this, \$29,900. Now, I understand that you made this request of Mr. Kalmbach?

Mr. LARUE. No, sir. I did not make this request of Mr. Kalmbach. This was at the time Mr. Kalmbach decided he wanted to relieve himself of the operation. My understanding is that this was the balance of the money which he had on hand and he told me that he wanted to turn this money over to me.

Senator MONTROYA. Then you received some money from Mr. Strachan, is that correct?

Mr. LARUE. Yes, sir.

Senator MONTROYA. \$50,000?

Mr. LARUE. Yes, sir.

Senator MONTROYA. And who was Tim Babcock?

Mr. LARUE. Tim Babcock was the former Governor of Montana.

Senator MONTROYA. You received \$14,000 from him?

Mr. LARUE. Yes, sir.

Senator MONTROYA. And then subsequently, \$280,000 additional from Mr. Strachan?

Mr. LARUE. Yes, sir.

Senator MONTROYA. Now, when you were using the code name of Baker and communicating with Mr. Bittman and he was giving you all these figures, \$75,000 and the other figures which were delivered, didn't it occur to you to ask him specifically what these amounts would be used for?

Mr. LARUE. Senator, I never had any communication of that type with Mr. Bittman. Communications to me regarding the requirements and regarding the moneys that I subsequently delivered to Mr. Bittman were either with Mr. Parkinson or Mr. O'Brien or with Mr. Dean.

Senator MONTROYA. Who set the specific figures and gave you the specific authority to deliver the specific amounts?

Mr. LARUE. Senator, the specific amounts were—these figures were related to me by, as I have stated, by Mr. Parkinson or Mr. O'Brien or Mr. Dean. I discussed these figures with Mr. Dean and received an OK to make these deliveries from Mr. Dean except in the last instance, which I have testified to, in which I talked to Mr. Mitchell.

Senator MONTROYA. What kind of discussion did you have with Mr. Mitchell with respect to the \$75,000 disbursement?

Mr. LARUE. I called Mr. Mitchell, related my conversation with Mr. Dean, in which he said he did not want to participate in this operation any more and would not be willing to authorize the delivery of that \$75,000. I told him I was not willing to deliver it without clearance from someone else and he suggested that I call Mr. Mitchell.

I related this to Mr. Mitchell. Mr. Mitchell asked what the purpose of the \$75,000 was. I told him that it was my understanding that it was for attorneys' fees, and he told me that he thought I ought to pay it.

Senator MONTTOYA. Didn't he tell you that the \$75,000 might be too exorbitant?

Mr. LARUE. Mr. Mitchell?

Senator MONTTOYA. Yes.

Mr. LARUE. No, sir; we did not discuss that.

Senator MONTTOYA. Did you tell him that there had been previous disbursements to this man for attorneys' fees?

Mr. LARUE. No; we did not discuss that, sir.

Senator MONTTOYA. You didn't discuss the background of this with him?

Mr. LARUE. No, sir.

Senator MONTTOYA. He just told us——

Mr. LARUE. Pardon me, Senator, would you repeat that question?

Senator MONTTOYA. You did not inform Mr. Mitchell as to the background of the disbursements that had been previously made to Mr. Bittman prior to the time that you called him for authority to disburse the \$75,000?

Mr. LARUE. No, sir.

Senator MONTTOYA. You did not?

Mr. LARUE. No, sir.

Senator MONTTOYA. One final question.

When Mr. Mitchell called the President, as is shown on this chart, at 6:08 on June 20, he had already been told by you and Mr. Mardian all that Mr. Liddy knew about the case and all that he had told you?

Mr. LARUE. Senator, I don't think I could state that as a fact, because I don't know if this telephone call was made before or after Mr. Mardian and I briefed him.

Senator MONTTOYA. You stated that you had talked to Mr. Mitchell in the afternoon?

Mr. LARUE. No, sir, I think I stated that we talked to Mr. Liddy in the afternoon. I think our meeting with Mr. Mitchell was very late afternoon.

Senator MONTTOYA. How late?

Mr. LARUE. Senator, I don't have a specific recollection. I assume it is probably on that chart up there. I am sorry again, I can't see that far.

Senator MONTTOYA. Your meeting with Mr. Mitchell and Mr. Mardian was at 6 o'clock.

Mr. VINSON. Is that the meeting that also shows Mr. Sedam and Mr. Magruder present?

Senator MONTTOYA. That is correct.

Mr. LARUE. Senator, we would not have been briefing Mr. Mitchell on the Liddy meeting with Mr. Sedam present or Mr. Magruder, quite frankly.

Senator MONTTOYA. Well, there is a meeting at 10:32 in the morning, and there is no meeting shown after 6.

Mr. LARUE. At 10:32, Senator, we had not talked with Mr. Liddy.

Senator MONTTOYA. There is no meeting subsequent to the call to

the President between you, Mr. Mitchell, and Mr. Mardian, so would that indicate that you had talked to Mr. Mitchell before he made the call to the President?

Mr. LARUE. Senator, again, looking at your chart there, the best I can read it, the telephone call to the President was at 6:08, is that correct?

Senator MONTONA. That is correct.

Mr. LARUE. And it indicates a meeting with Mr. Mardian, Mr. Magruder and I and Mr. Sedam that begins at 6 o'clock. Is that correct?

There is no way we could have briefed Mr. Mitchell on our conversation with Mr. Liddy between 6 and 6:08.

Senator MONTONA. Well, you briefed him on the \$75,000 in 1 minute.

Mr. LARUE. Well, I think the meeting with Mr. Liddy, obviously, there were more points covered and I do not think it would have been possible for us to give him a briefing or a recounting of that meeting in 8 minutes.

Senator MONTONA. That is all, Mr. Chairman.

Thank you, Mr. LaRue.

Senator ERVIN. The committee will stand in recess until 10 o'clock tomorrow.

[Whereupon, at 5:05 p.m., the hearing was recessed, to reconvene at 10 a.m., Thursday, July 19, 1973.]

THURSDAY, JULY 19, 1973

U.S. SENATE,  
SELECT COMMITTEE ON  
PRESIDENTIAL CAMPAIGN ACTIVITIES,  
*Washington, D.C.*

The Select Committee met, pursuant to recess, at 10 a.m., in room 318, Russell Senate Office Building, Senator Sam J. Ervin, Jr. (chairman), presiding.

Present: Senators Ervin, Talmadge, Inouye, Montoya, Baker, Gurney, and Weicker.

Also present: Samuel Dash, chief counsel and staff director; Fred D. Thompson, minority counsel; Rufus L. Edmisten, deputy chief counsel; Arthur S. Miller, chief consultant; Jed Johnson, consultant; David M. Dorsen, James Hamilton, and Terry F. Lenzner, assistant chief counsels; R. Phillip Haire, Marc Lackritz, William T. Mayton, Ronald D. Rotunda, and Barry Schochet, assistant majority counsels; Eugene Boyce, hearings record counsel; Donald G. Sanders, deputy minority counsel; Howard S. Liebengood, H. William Shure, and Robert Silverstein, assistant minority counsels; Pauline O. Dement, research assistant; Eiler Ravnholt, office of Senator Inouye; Robert Baca, office of Senator Montoya; Ron McMahan, assistant to Senator Baker; A. Searle Field, assistant to Senator Weicker; John Walz, publications clerk.

Senator ERVIN. The committee will come to order.

The Chair recognizes Senator Inouye.

Senator INOUE. Thank you very much, Mr. Chairman.

Mr. LaRue, I gather from your title and from your background your prime function as special consultant to the President was to advise the President and others close to him on matters political. Would that be correct, sir?

**TESTIMONY OF FREDERICK C. LaRUE—Resumed**

Mr. LaRUE. No, Senator, I do not think that would be a correct statement.

Senator INOUE. What was your function?

Mr. LaRUE. The primary function initially that I served in my capacity as a special consultant would be in a liaison capacity between the State of Mississippi and the Federal agencies involved in disaster relief resulting from Hurricane Camille.

Senator INOUE. How did you get involved in this coverup scheme?

Mr. LaRUE. Pardon me?

Senator INOUE. How did you get involved in this coverup mess?

Mr. LaRUE. Well, Senator, there was—this involvement occurred much later during the Presidential campaign in 1972. I am speaking now in the time frame of the latter part of 1969, 1970, that I served in this capacity.

Senator INOUE. At the time of, say, early 1972, what was your function, sir?

Mr. LARUE. Early 1972 I joined the reelection committee with the title eventually of special assistant to the campaign director.

Senator INOUE. You have testified on several occasions that you discussed the matter of \$75,000 with Mr. Mitchell.

Mr. LARUE. That is correct.

Senator INOUE. Why did you call upon Mr. Mitchell? I ask this because at that time, according to testimony, Mr. Mitchell was no longer Attorney General of the United States nor was he chairman of the Committee To Re-Elect the President.

Mr. LARUE. Senator, I think I stated in my testimony yesterday that I had a phone call from Mr. Dean regarding this \$75,000. He would not authorize or instruct me to make this payment, and he suggested that I call Mr. Mitchell.

Senator INOUE. Why did you call Mr. Mitchell?

Mr. LARUE. Why did I call him?

Senator INOUE. Because of Mr. Dean's function?

Mr. LARUE. Because Mr. Dean suggested that I call him; yes, sir.

Senator INOUE. Why did Mr. Dean tell you to call Mr. Mitchell?

Mr. LARUE. Mr. Dean was not—indicated to me that he was not going to become involved any further in the distribution of funds, and that if I were to get any authorization on this it would have to come from someone else and he suggested that I call Mr. Mitchell.

Senator INOUE. Am I correct to assume that Mr. Dean was aware that the \$75,000 was part of the grand scheme, the grand coverup scheme?

Mr. LARUE. I think that would be a safe assumption; yes, sir.

Senator INOUE. Am I correct to assume that you were aware that this was part of the grand coverup scheme?

Mr. LARUE. Yes, sir.

Senator INOUE. Am I correct to assume that Mr. Mitchell was aware that this was part of the grand coverup scheme?

Mr. LARUE. I would say, Senator, that that is a correct assumption.

Senator INOUE. Then, when Mr. Mitchell suggested to the committee that he was not aware of these coverup activities he was not absolutely correct, was he?

Mr. LARUE. Senator, I did not gather from Mr. Mitchell's testimony that he stated he was not aware of the coverup activities.

Senator INOUE. Mr. LaRue, there is one word used quite frequently in your testimony and that of Mr. Kalmbach also and that of Mr. Ulasewicz, and that word is "expense." Apparently several people had expense accounts, including yourself.

Mr. LARUE. That is correct.

Senator INOUE. We have been told that Mr. Stans had expenses, Mr. Kalmbach, Mr. Magruder, Mr. Ulasewicz, and others. For example, in your summary of transactions you indicate that \$4,500 was distributed to Mr. Magruder for expenses.

Did Mr. Magruder submit to you or to anyone a list of the items of expenses?

Mr. LARUE. No, sir.

Senator INOUE. Did you not feel that this was a bit irregular?

Mr. LARUE. No, Senator, I did not. I had the utmost trust in Mr. Magruder, and I felt that this was proper. As I stated to the staff of this committee, I made this decision and take full responsibility for it.

Senator INOUE. You indicated that you worked without a salary but you received an expense of \$1,500 a month; is that correct?

Mr. LARUE. That is correct.

Senator INOUE. You also testified that during the period of about 7 months you received \$12,000 in expenses. Is this the same amount or is this over and above the \$1,500?

Mr. LARUE. No, sir; this would be the same amount. I would like to clarify, Senator, that the \$12,000 that was the total amount of expenses that I handled, this was not the total for me. This included Mr. Magruder's \$4,500.

Senator INOUE. I notice the expense accounts are all in round figures. Did you really incur \$12,000 worth of expenses?

Mr. LARUE. Did I during this time period? Considerably more, Senator.

Senator INOUE. Did you submit your claims to the committee?

Mr. LARUE. Pardon me?

Senator INOUE. Did you submit claims to the committee in addition to the \$12,000?

Mr. LARUE. Yes, sir.

Senator INOUE. And what did the committee do?

Mr. LARUE. I have received expense payments from the committee during this period of time.

Senator INOUE. I presume you have read the testimony of Mr. Dean.

Mr. LARUE. No, Senator, I have not read the complete testimony. I have seen part of it and I have read part of it.

Senator INOUE. I would like to get your views on a matter that seems like a coincidence to some of us. Throughout the hearing we have heard of meetings.

Mr. LARUE. Pardon me?

Senator INOUE. Gatherings in San Clemente, at Key Biscayne, and oftentimes the participants have to fly to these meeting places from Washington. Why did they not meet in Washington?

Mr. LARUE. Senator, I am not—I do not think I am aware of what meetings you are speaking of.

Senator INOUE. Now, for example, the meeting in Key Biscayne, the one you participated in. If I count the participants properly, most of the participants were in Washington and were called over to Key Biscayne. By coincidence at each meeting the President was nearby. Was there any relevance between the President being present at that location?

Mr. LARUE. Senator, I was not aware that the President was in Key Biscayne during this time. In fact, I am fairly certain he was not.

Senator INOUE. What makes you say so, sir?

Mr. LARUE. The house we were staying in was very close to the Presidential compound, and I think we would have been aware of the fact that the President was there at that time. I think I would have been aware of it. And I have a specific recollection that the President was not there.

Senator INOUE. On this meeting in Key Biscayne, did you at any time see the famous Liddy charts?

Mr. LARUE. Are you referring, Senator, to the charts that have been described in one of the previous meetings?

Senator INOUE. Yes, sir.



Mr. LARUE. No, sir, I did not.

Senator INOUE. Did you at any time see the Liddy memo?

Mr. LARUE. The only memo I saw, Senator, was the one I have described to this committee outlining the electronic surveillance plan.

Senator INOUE. Did you participate in a discussion of any other plan besides the so-called Liddy plan?

Mr. LARUE. Senator, that day I participated in a discussion of a wide range of activities that would be conducted or were proposed to be conducted by the reelection committee.

Senator INOUE. I am talking about illegal activities.

Mr. LARUE. No, sir.

Senator INOUE. The only illegal plan discussed was the Liddy plan?

Mr. LARUE. Yes, sir.

Senator INOUE. And it is your testimony that no other plans were discussed?

Mr. LARUE. No other plans of that nature; yes, sir.

Senator INOUE. In your discussions in the plans were the involvement of the CIA or the FBI discussed?

Mr. LARUE. No, sir.

Senator INOUE. How did you propose to get all of the information set forth in the plan?

Mr. LARUE. Senator, I am not sure if I understand your question.

Senator INOUE. Did the plan call for assistance from the FBI or the CIA?

Mr. LARUE. You are talking about the plan that was discussed in Key Biscayne? No, sir, not to my recollection; it was not.

Senator INOUE. It was to be done without the assistance of these Federal agencies?

Mr. LARUE. That is my understanding, yes, sir.

Senator INOUE. Was any discussion held as to how the accounts were to be paid for this special project?

Mr. LARUE. Not that I can recall, no, sir.

Senator INOUE. You advised the committee on how to carry out their activities, and you were involved in some of the most extraordinary meetings, and now you are sitting before us, and we have asked this question, I believe, of all or most of the witnesses: In retrospect now that you know it was illegal, and if you were asked to recommend any legislation to prevent the further occurrence or reoccurrence of those activities in which you were involved, what would you recommend, sir?

Mr. LARUE. Senator, I haven't given that a great deal of thought. I do think that there are certain things I would recommend. I think basically one of the recommendations would be legislation to curtail or prohibit to the extent possible the use of cash in political campaigns—cash money.

Senator INOUE. Any other recommendations?

Mr. LARUE. None that I can think of immediately, Senator; as I say I quite frankly have not focused on that.

Senator INOUE. My final question, sir, a question that we asked of Mr. Mitchell. If you recall, Mr. Mitchell said that the reelection of President Nixon was paramount, and that all other considerations were insignificant. Do you concur with that, sir, or at that time did you concur with that?

Mr. LARUE. Senator, I don't know if I can make that broad a statement. Certainly at that time I considered the election of paramount importance; yes, sir.

Senator INOUE. Sufficiently important that the commission of crimes would not be considered significant?

Mr. LARUE. Senator, as I have stated in my opening statement, at that time, I did not consider myself involved in the commission of a crime. In retrospect that has turned out to be the case. At that particular point I was not thinking in those terms.

Senator INOUE. What would your response be to a question that was posed with Mr. Mitchell: Would you have lied to protect the President?

Mr. LARUE. Senator, fortunately I never had to cope with that problem.

Senator INOUE. Is that an answer?

Mr. LARUE. It is something that I didn't consider at the time.

Senator INOUE. It is not possible for you to give a yes or no response to that?

Mr. LARUE. I can't. It's too hard to go back to that time period and assess my state of mind what I would have done at that time.

Senator INOUE. Then what conclusion are we supposed to reach today as to whether you would lie today?

Mr. LARUE. Senator, I have no reason to tell anything other than the truth to this committee. As I have stated in my opening statement I have faced up to what I have done and it would serve no purpose to me to tell you anything but the truth.

Senator INOUE. Just for the record, you were charged with several crimes and I believe you pleaded guilty to one. Would you relate to the committee the circumstances, the crimes involved, and the circumstances involved in the pleading of guilty?

Mr. VINSON. Senator, may I straighten the record out?

Senator INOUE. Yes, sir.

Mr. VINSON. Mr. LaRue was not charged with several crimes. He pled guilty, however, to a one-count information charging a conspiracy to obstruct justice.

Senator INOUE. I am just trying to give Mr. LaRue an opportunity to clear the air of any doubts because I believe the press reported that a deal had been made. I am certain you recall that, counsel, don't you, sir?

Mr. VINSON. May I respond to that, Senator?

Senator INOUE. Yes.

Mr. VINSON. That is one way to put it. What actually happened is that Mr. LaRue and I told the prosecuting authorities that he wanted to make a full and complete truthful disclosure to them of all facts within his knowledge. In exchange for that, the Government merely—and I say merely—agreed to make the extent of his cooperation with the Government known at an appropriate time.

I have here, Senator, a letter dated June 12, 1973, addressed to me as Mr. LaRue's attorney signed by Archibald Cox which constitutes the entire agreement in connection with this matter. It is a matter of public record. It was read into the court record at the time that Mr. LaRue entered his plea and I would ask that the committee accept it at this time as an exhibit.

Senator INOUE. Would you care to read the letter, sir?

Mr. VINSON. I would be glad to if you would like me to, Senator. Letterhead, "Watergate Special Prosecution Force," dated June 12, 1973, and addressed to me:

The Government will accept a guilty plea from Mr. Fred LaRue to a one count indictment or information charging a conspiracy to obstruct justice. This will dispose of all other potential charges against your client which might otherwise arise out of the investigation of the so-called Watergate incident and the alleged cover-up relating thereto, including without limitation possible violations of the Federal Election Campaign Act and the Corrupt Practices Act. The Government will join with you in urging that Mr. LaRue's sentencing be deferred until after the trial of those implicated by testimony already given by Mr. LaRue and that Mr. LaRue be permitted to remain on bond or on recognizance pending sentence in order to facilitate his cooperation with the Government.

Finally, this understanding is predicated upon Mr. LaRue's complete cooperation with the Government, including the immediate, full and truthful disclosure of all information in his possession. Ultimately, of course, he will be required to testify as a witness for the Government in any and all cases with respect to which he may have relevant information. The extent of his cooperation will be brought to the Court's attention by the Government before sentencing. Sincerely, Archibald Cox, Special Prosecutor.

Senator ERVIN. Let the reporter mark the letter with the appropriate number.

[The document referred to was marked exhibit No. 87.\*]

Senator INOUE. Thank you very much. There are three words in that letter: "otherwise potential crimes." What were the "otherwise potential crimes," sir?

Mr. VINSON. It says this will dispose of all other potential charges.

Senator INOUE. Other potential charges: I am sorry, sir; what are the other potential charges?

Mr. VINSON. Well, sir, they are all related, the conspiracy to obstruct justice information to which Mr. LaRue pleaded states in essence that he was a part of a conspiracy to impede, impair, and obstruct the investigation by concealing relevant evidence, and it further states that he participated in meetings to develop misleading testimony to be given to the FBI, for instance, and it states that he acquired and covertly paid cash to certain individuals, all matters about which he has testified to this committee.

As a technical matter, Senator, the Government, the prosecutors, could take each of those allegations and make a separate count, a separate charge out of it if they wished to do so. They sometimes do, they sometimes don't. There is nothing unusual about this matter.

Senator INOUE. Thank you very much, Counsel.

Thank you very much, Mr. LaRue.

Thank you, Mr. Chairman.

Senator ERVIN. Senator Baker.

Senator BAKER. Thank you, Mr. Chairman.

Mr. LaRue, you have testified at rather great length and extensively and thoroughly in response to the interrogation put to you by counsel and by the members of this committee and I won't prolong the interrogation greatly. But there are a few points that remain unclear in my mind, or at least I believe could stand a little further elaboration. I may have misunderstood you.

Yesterday, you said that Mr. Magruder indicated after the telephone call from Washington to California: "Last night was the night he was going into the Democratic National Committee headquarters."

\*See p. 2634.

Now, that was my understanding of that and I haven't checked the record today.

Am I mistaken about that, or appropriately, would you tell me again what Mr. Magruder told you after his initial telephone call—after the initial telephone call to California which he received?

Mr. LARUE. I think, Senator, that that is substantially correct. I think I said that he told me he thought last night may be the night that they were going into the Democratic National Committee headquarters; yes, sir.

Senator BAKER. Now, he didn't attribute that statement in that context, as I understand you—he didn't attribute that statement to anybody, but rather it sounds like Mr. Magruder was stating a fact that he already knew; that last night was the night that they may have been going into the Democratic National Committee headquarters.

Is that your impression, Mr. LaRue?

Mr. LARUE. Yes, sir.

Senator BAKER. So you are under the impression from that testimony, I mean that statement by Mr. Magruder, that he did in fact know that there was a planned entry into the Democratic National Committee headquarters in the early morning hours of June 17, 1972?

Mr. LARUE. That would be my assumption, yes, sir.

Senator BAKER. Do you have any other information that you could give us on Mr. Magruder's knowledge or previous information of the impending entry into the Democratic National Committee?

Mr. LARUE. No, I don't think so.

Senator BAKER. Did he ever discuss it with you?

Mr. LARUE. No, he did not.

Senator BAKER. Did anyone ever discuss it with you?

Mr. LARUE. No, they did not.

Senator BAKER. Did you, Mr. LaRue, know that they were going to break into the Watergate?

Mr. LARUE. No, sir, I did not.

Senator BAKER. You had no indication or intimation of that?

Mr. LARUE. No, I did not.

Senator BAKER. What was your reaction to Mr. Magruder's statement, then, when he said, well, last night was the night they were going to break into the DNC?

Now, this was a very urgent, hurry-up call to California from Washington, to Mr. Magruder and here is a very high campaign official saying, well, last night was the night they were going to break in.

What was your reaction to that, Mr. LaRue?

Mr. LARUE. My reaction to that, Senator, was one of concern. We were having a phone call that indicates a problem, Mr. Magruder has told me that there is a possibility that that could have concerned a break-in of the Democratic National Committee and I was very concerned and I asked Mr. Magruder to go to a pay phone and call Mr. Liddy and find out what the details were, what actually had happened.

Senator BAKER. Did you ask Magruder to do that?

Mr. LARUE. Yes, sir, I asked him to go to a pay phone rather than go to the NASA base or installation which Mr. Liddy had requested that he do.

Senator BAKER. Who else was present when Magruder made that statement?

Mr. LARUE. Well, Senator, we were at breakfast. I am sure several people were present at breakfast, but he made the statement to me in an aside, where no one else heard it.

Senator BAKER. Did you convey that information to anyone else?

Mr. LARUE. No, sir; I didn't.

Senator BAKER. Did Mr. Magruder make the same or a similar statement to anyone else at that time?

Mr. LARUE. Not that I know of, Senator.

Senator BAKER. Did you gain the impression, Mr. LaRue, that others present in California on that occasion also knew that that was the night that they were going to break into the DNC?

Mr. LARUE. No, sir; I did not.

Senator BAKER. Were you present when Mr. Mitchell received that information, that in fact there had been an entry into the DNC?

Mr. LARUE. Yes, sir; I gave him the information.

Senator BAKER. What was his reaction?

Mr. LARUE. His reaction was one of surprise.

Senator BAKER. Can you characterize that a little further?

Mr. LARUE. I testified, I think, to that point yesterday, Senator. Mr. Mitchell did indicate surprise, I think made the statement: "That is incredible."

Senator BAKER. Mr. LaRue, on another point, you indicated that someone said to contact Kleindienst, meaning former Attorney General Kleindienst, I understand, and to ask him to contact Chief Wilson, the Chief of Police for the District of Columbia, about the release of certain people arrested on the morning of June 17.

Mr. LARUE. No, sir; I did not testify to that, Senator. I said that in my recollection of that incident, that Mr. Mitchell asked that a phone call be made to Gordon Liddy and that Mr. Liddy contact Mr. Kleindienst and Mr. Kleindienst contact Chief Wilson to see what details he could get on the break-in.

Senator BAKER. OK.

So, the suggestion was from Mitchell to call Liddy, or someone to call Liddy.

Who was to call Liddy?

Mr. LARUE. Senator, I don't recall who made the telephone call. I did not.

Senator BAKER. All right.

For someone to call Liddy or Liddy to call Kleindienst or Kleindienst to call Wilson to find out what went on.

Mr. LARUE. That is correct.

Senator BAKER. Why Liddy?

Mr. LARUE. I can't answer that question, Senator. Mr. Liddy was at that time a person in Washington with whom the conversations were being had.

Senator BAKER. Was the call in fact made or do you know, Mr. LaRue?

Mr. LARUE. Yes, the call was made.

Senator BAKER. But you don't recall who made it?

Mr. LARUE. No, I do not recall who made it.

Senator BAKER. Was this a report back on the results of that telephone call to Mr. Liddy?

Mr. LARUE. Not that I recall.

Senator BAKER. Did you later learn of any response or development as a result of that call to Mr. Liddy?

Mr. LARUE. Yes, I did.

Senator BAKER. Could you—

Mr. LARUE. I think Mr. Liddy contacted Mr. Kleindienst and Mr. Kleindienst refused to do this. He said that if Mr. Mitchell—as I understand it, he told Mr. Liddy if Mr. Mitchell wanted him to contact Chief Wilson, then Mr. Mitchell should contact Mr. Kleindienst directly.

Senator BAKER. But Mr. Kleindienst, in effect, refused to contact Chief Wilson?

Mr. LARUE. That is my understanding; yes, sir.

Senator BAKER. Was that information conveyed to Mr. Mitchell in California?

Mr. LARUE. I do not think so; no. I found this out at a later date, Senator.

Senator BAKER. Who else knew of the suggestion, if anyone, that Liddy be contacted to contact Kleindienst to contact Wilson?

Did anyone other than you and Mitchell?

Mr. LARUE. I think Mr. Magruder was aware of this and I think Mr. Mardian was aware of this.

Senator BAKER. All right, sir.

Mr. LaRue, it is obvious that one of the most important parts of your testimony as it relates to other parts of this record as it has been developed so far is the essence of the meeting in California, where Mr. Liddy made his third presentation or Mr. Magruder, I believe, made the third presentation of the Liddy plan for Mr. Mitchell's attention. I am sorry to belabor the point, but I can't do that very long.

Again, if you will, and tell me how it was presented, what Mr. Mitchell's reaction to it was, and what other information you can give me, if any, about the question of whether or not John Mitchell approved the plan, did not approve the plan, or postponed deciding on the plan.

Mr. LARUE. Senator, this discussion took place at the end of a day-long meeting in which other campaign matters were discussed. Present were Mr. Mitchell, Mr. Magruder, and I. Mr. Magruder handed Mr. Mitchell the papers outlining this plan. Mr. Mitchell read it. He turned to me, asked me if I had read it. I told him yes. He asked me what I thought. I told him I did not think it was worth the risk, and Mr. Mitchell indicated at that time that he did not think this was something that had to be decided at that meeting.

Senator BAKER. Mr. LaRue, that is the vote signal indicating we have only 5 minutes for this rollcall. I am going to suspend now, Mr. Chairman, if I may, and continue briefly after the rollcall.

Senator ERVIN. The committee will stand in recess to give the members time to vote.

[Recess.]

Senator BAKER [presiding]. The hearings will come to order.

Senator Ervin was called temporarily away on business and asked me to proceed with the questioning.

Mr. LaRue, did you talk to Mr. Gray while you were in California?

Mr. LARUE. Yes, I did.

Senator BAKER. Would you tell me the nature and circumstances of that conversation?

Mr. LARUE. Excuse me, Senator. Is this mike alive?

Senator BAKER. I think the panel board is indicating the switch may be turned on or off.

Obviously, we do not have a wiretapper here.

Mr. VINSON. I think it is on now, Senator.

Senator BAKER. Can you tell me something about the conversation you had with Mr. Gray and when you had it?

Mr. LARUE. Senator, this conversation occurred, I think Sunday afternoon, at the Newporter Inn, as I recall.

Senator BAKER. Do you know why Mr. Gray was in California at that time?

Mr. LARUE. Not specifically, Senator, no. I think it was in line with some function he was performing for the Federal Bureau at that time.

Senator BAKER. What was the nature of the conversation, if you do not mind telling me, and who arranged the meeting?

Mr. LARUE. The meeting was not arranged, Senator. When we arrived at the Newporter Inn, one of the agents told us—told me—that Mr. Gray was there. He and his wife, I think, were at the swimming pool. I went out and visited with them for oh, 30, 45 minutes. Both Mr. and Mrs. Gray are friends of mine and we had a—I would classify it as a social visit. However, the Watergate was discussed, but only in the very broadest generalities.

Senator BAKER. Were there any plans made or any instructions carried out in that instruction with Gray about the Watergate?

Mr. LARUE. No, sir.

Senator BAKER. Whatever conversation about Watergate occurred at that time at the Newporter Inn was casual and social and not substantive?

Mr. LARUE. That is correct, sir.

Senator BAKER. Do you know whether Mr. Gray met with anyone else in California during that time period about the Watergate affair, to your knowledge?

Mr. LARUE. No, I do not.

Senator BAKER. Mr. LaRue, going back previously to the meeting in Florida, where your recollection indicates that Mr. Mitchell, referring to the Magruder presentation of the Liddy plan, said: "Well, we do not have to talk about—have to decide on that now," you knew John Mitchell pretty well at this point and I am dealing now in rather subjective considerations. But I would appreciate your impressions of whether or not his query to you of what you thought of that plan and your indication you thought the risk was greater than the worth, or words to that effect, and his saying, "Well, we do not have to decide on that now," together with any other information you can give us about this, created the impression in your mind at that time that Mitchell, then or later, approved or did not approve the Liddy plan? Now, if you cannot answer that, simply say so. But if you have an impression or if you have other information, I would be grateful for it.

Mr. LARUE. Senator, the only impression that I got that this was something that Mr. Mitchell was certainly not enthusiastic about and was trying to really terminate a discussion about it.

Senator BAKER. Trying to terminate?

Mr. LARUE. To terminate any discussion of it, yes, sir.

Senator BAKER. And you have no other recollection of any other aspect of that situation at that time?

Mr. LaRUE. No, I do not.

Senator BAKER. You were Mr. Bradford—known as Mr. Bradford in the code language of your subsequent transactions?

Mr. LaRUE. With Mr. Kalmbach. Mr. Kalmbach and I both used the code name Bradford, yes, sir.

Senator BAKER. You would call Mr. Kalmbach Mr. Bradford and he would call you Mr. Bradford on the initiation of a telephone conversation?

Mr. LaRUE. Yes, sir, that is correct.

Senator BAKER. Well, if you will pardon the self-serving expression, where did you get that "Baker" code name?

Mr. LaRUE. Senator, when I placed the initial call to Mr. Bittman in October to arrange for delivery of money to his office, without thinking, I placed a call to his office and the secretary answered and wanted to know—I asked for Mr. Bittman and she said, "May I say who is calling?" I did not want to use my name, and I just picked the name "Baker" out of the air.

Senator BAKER. I wonder why. I wonder what would have happened if I had in fact called about it. Would you have sent me some money, too? [Laughter]

No, seriously, Mr. LaRue, I think that my colleagues on the committee and counsel have covered your testimony rather thoroughly. I think your testimony is very important to this committee because of your unique situation. You, in effect, have received immunity, although the law does not call it that, from the special prosecutor's office—

Mr. LaRUE. That is not my understanding, Senator.

Senator BAKER. They do not intend to prosecute you on other matters, other than the one information that you have pled guilty to.

I am not trying to be your lawyer, I am not trying to give you legal advice, but it seems to me that when you take into account that letter from Mr. Cox indicating they do not intend to prosecute you for election law violations or other matters, saving and excepting only the single count contained in the information on conspiracy to obstruct justice, about the only remaining peril you have in this connection would be the peril of perjury.

Mr. LaRUE. I agree with that, Senator.

Senator BAKER. Are you aware of that peril?

Mr. LaRUE. Yes, sir.

Senator BAKER. Have you attempted to give us the facts as you know them and comply with the agreement outlined in Mr. Cox's letter?

Mr. LaRUE. Absolutely.

Senator BAKER. I thank you very much, Mr. LaRue.

Senator ERVIN [presiding]. Senator Weicker.

Senator WEICKER. Just a few very brief questions, Mr. LaRue.

You have indicated that—well let me ask you a question first: Do you know from whom or from what office the payoff money that you distributed came from?

Mr. LaRUE. Senator, this money came from several sources.

Senator WEICKER. From several sources?

Mr. LaRUE. Yes, sir.

Senator WEICKER. All right.

Would you list those sources?

Mr. LaRUE. \$81,000 that I received in early July from Mr. Stans and Mr. Sloan.



Senator WEICKER. All right.

Mr. LARUE. \$30,000 in September from Mr. Rivers, Mr. Ulasewicz, \$50,000 in December from Mr. Strachan, \$14,000 in January from Mr. Babcock.

Senator WEICKER. From Mr. Who?

Mr. LARUE. Babcock.

Senator WEICKER. Who is Mr. Babcock?

Mr. LARUE. Mr. Tim Babcock, he is a former Governor of Montana.

Senator WEICKER. In what capacity was he delivering the money?

Mr. LARUE. My understanding, Senator, is that this was a pledge made during the campaign and there was a delivery just happened to be made after the campaign.

Senator WEICKER. I see.

Pledge from whom?

Mr. LARUE. From Mr. Babcock. And then in January or—yes, in January, \$280,000 from Mr. Strachan.

Senator WEICKER. Do you associate, aside from the individuals named, \$81,000 from Mr. Stans and Mr. Sloan and \$30,000 from Mr. Ulasewicz, alias Rivers, \$50,000 from Mr. Strachan, \$14,000 from Mr. Babcock, and \$280,000 from Mr. Strachan. Do you associate any institution or corporation or organization with these moneys aside from the individuals who gave it to you?

Mr. LARUE. The \$81,000, Senator, was—my understanding of that was the cash balance at the Committee for the Re-Election at that time. The \$50,000 and the \$280,000 from Mr. Strachan—it was my understanding that this was a fund that had been at the White House.

Senator WEICKER. All right.

As I understand it, up until recently you had \$113,000 left over; is that correct?

Mr. LARUE. That is correct.

Senator WEICKER. Where was that money?

Mr. LARUE. Where was it?

Senator WEICKER. Where did you keep that money?

Mr. LARUE. It has been in the bank and up until the time I disbursed it, as was explained yesterday, to—back to the finance committee.

Senator WEICKER. Finance committee of what?

Mr. LARUE. Finance Committee To Re-Elect the President.

Senator WEICKER. Why did you return the money to the Committee To Re-Elect the President? Why didn't you return it to the White House?

Mr. LARUE. Senator, we—this was covered yesterday in testimony and several letters have been placed in the record. I think maybe it might be best if Mr. Vinson addressed himself to that question because he did yesterday, if that is permissible.

Senator WEICKER. Fine; yes, indeed.

Mr. VINSON. Senator Weicker, yesterday I agreed to have duplicated an exchange of correspondence principally between me, acting as Mr. LaRue's counsel, and Mr. Stans' counsel, which relates to the return of this money to the finance committee, and I agreed to duplicate that correspondence so that it would be inserted in the record, and I have it here, and can tender it to the committee at this time.\*

\*See exhibit 88, p. 2635.

Senator WEICKER. I appreciate that. Still the only question in my mind is with the knowledge that you have as to where these moneys came from. As I understand it, only \$81,000 came from the Committee To Re-Elect the President.

Mr. VINSON. Well, sir, Mr. LaRue testified that he had knowledge that the source of this \$328,000 and \$330,000, \$350,000 amount that was at the White House, this had come from cash at the committee; but basically, to summarize this correspondence, I had written or called Mr. Stans' attorney and told him we had this money and would like to return it. I think we got one letter requesting the return of, I believe, \$48,000. We sent that check back, and said we would like to return the balance and ultimately they requested the balance, and we have sent that to them.

Senator WEICKER. In any event, none of this money, as I understand it, then came from the Republican National Committee; is that correct?

Mr. LARUE. Not to my knowledge, Senator; no.

Senator WEICKER. This was money that you felt belonged either to the Committee To Re-Elect the President or Mr. Babcock, I guess, would be basically the two parties. Would that be correct?

Mr. LARUE. Yes, sir; that is correct.

Senator WEICKER. You seemed hesitant, is there anything—

Mr. LARUE. I think the Babcock contribution has been reported, as I understand it's been reported—

Senator WEICKER. I don't mean to intimate at all it was not reported. I just want to lay the groundwork as to why this money was returned to the Committee To Re-Elect and I gather that has been explained in the letters your attorney has sent forward and, very frankly, I want to establish the point that these were moneys that did not come to the Republican National Committee.

Mr. LARUE. Senator, to my mind none of this money originated or came from the Republican National Committee.

Senator WEICKER. All right. Now you were present with Mr. Mitchell in California on the weekend of the break-in. Now, did Mr. Magruder brief you and Mr. Mardian on June 17 as to the break-in?

Mr. LARUE. Senator, no; he did not brief me as to the break-in. He only informed me of the telephone call from Mr. Liddy.

Senator WEICKER. So it is your testimony that at no time while in California were you briefed—Mr. Mardian has to speak for himself—were you briefed by Mr. Magruder as to the details of the break-in?

Mr. LARUE. No; other than the details of Mr. Liddy's telephone call.

Senator WEICKER. How many meetings did you have—do you remember how many meetings you had on June 17?

Mr. LARUE. Pardon me, Senator. I didn't hear the question.

Senator WEICKER. Can you tell me how many meetings you had on June 17 with Mr. Magruder, Mr. Mitchell, Mr. Mardian?

Mr. LARUE. Senator, I could not recall any specific number of meetings or really meetings in a formal sense. I think I have stated that I met with Mr. Mitchell initially and gave him the information about the Liddy phone call. I later met with—as I recall, with Mr. Mitchell and Mr. Mardian and Mr. Magruder in which the instructions were given or request made to get in touch with Mr. Kleindienst. Shortly after that we left, went to another hotel for a whole series of political

meetings and didn't return back to our hotel until rather late that afternoon. There was a meeting or, I guess, a couple of meetings in which a press response was drafted and, you know, to the best of my recollection that is pretty well the meetings that I recall.

Senator WEICKER. When you say the details of the Liddy call, and I excuse myself if I don't recall testimony that you gave yesterday, did that fully describe what had happened at the Watergate?

Mr. LARUE. Well, to the extent that there had been a break-in at the Democratic National Committee, five men were involved, had been apprehended, and one of the men was James McCord.

Senator WEICKER. But aside from that you were not briefed at all on June 17 by Mr. Magruder?

Mr. LARUE. No, sir; not to my recollection, no.

Senator WEICKER. Were you briefed by Mr. Mardian?

Mr. LARUE. Not to my recollection; no.

Senator WEICKER. How about on the 18th of June?

Mr. LARUE. No, sir. Mr. Magruder—as I recall, Senator, Mr. Magruder left California the morning of the 18th.

Senator WEICKER. Now, just one last group of questions. Am I correct when I understand that during the months of July and August, you did meet with Mr. Magruder and he did give you the details of the break-in? Is that correct?

Mr. LARUE. Yes, sir.

Senator WEICKER. Both before and during, he gave you a full briefing during that period of time?

Mr. LARUE. During that period of time, yes, sir; Mr. Magruder recounted to me the same thing that he has testified to before this committee concerning his knowledge of the break-in—his involvement.

Senator WEICKER. Did you tell Mr. Mitchell everything that Mr. Magruder told you?

Mr. LARUE. Senator, I do not know; I cannot say that I told Mr. Mitchell everything that Mr. Magruder told me. I have had many conversations with Mr. Mitchell concerning the Watergate, concerning my conversations with Mr. Magruder. As to whether I specifically outlined everything Mr. Magruder told me, I cannot say.

Senator WEICKER. I think it is very important to try to refresh your recollection on that point. May I point out to you that when you returned on June 19, you met with Mr. Mitchell every day that following week, that you had as many as four meetings per day. You met with Mitchell every day the next week, except when Mr. Mitchell was in New York, including a lengthy meeting before Mitchell saw the President and resigned on June 30, and that you met with Mr. Mitchell every day for the next week up until July 14, with two exceptions. This makes a total of 36 meetings over the course of 18 days.

Now, I can understand how you could not go ahead and reconstruct the details of each individual meeting. There are just too many meetings. But I certainly think you are able to tell us or should be able to tell us very clearly as to what the thrust of these meetings were and what information was given to Mr. Mitchell. So I would prefer to ask my question of you, not the details of any specific day or any specific meeting, but exactly the details of 38 meetings in 18 days.

Was it during this period of time—let me try to be precise—was it during this period of time that you informed Mr. Mitchell of Mr. Magruder's knowledge as imparted to you?

Mr. LARUE. I am sure that part of this was imparted during this time frame. These meetings, as I recall, Senator, covered a very wide range of subjects, some related to the Watergate, some not. There was still an ongoing campaign at this time and there were many discussions relating to campaign matters. There were also many discussions relating to the Watergate. We had discussions regarding our response to the civil litigation, discussions regarding the ongoing investigation of the Watergate incident itself. I am sorry, I just cannot specifically recall any meeting that any specific information may have been discussed. I just cannot remember.

Senator WEICKER. Well, as I said, I am not asking you to perform miraculous feats insofar as any particular meeting, not when they occur with the consistency that they do in your case with Mr. Mitchell. But as I have indicated to you, insofar as the general time period in a number of meetings, I think you should be able to recall with a little more specificity as to what was discussed.

Let me ask you. You say that the civil suit was of concern to you. I keep on hearing this, that we were involved in the civil litigation. Were not lawyers hired for this particular duty?

Mr. LARUE. Yes, sir.

Senator WEICKER. Well, I would imagine that probably was their principal concern. Why would it be your principal concern?

Mr. LARUE. Primarily, Senator, because, as a part of this, of the legal processes of civil litigation, we were confronted with the possibility of depositions and discovery proceedings which could have led to very embarrassing revelations at this time.

Senator WEICKER. All right; two very brief points: On June 20, 1972, were you and Mr. Mardian instructed the night before to interview Liddy? Were you instructed on the night of the 19th by Mr. Mitchell to interview Liddy?

Mr. LARUE. I was never instructed to interview Liddy, Senator. As I testified yesterday, Mr. Mardian came to me, asked if he could borrow the key—use my apartment. He wanted to interview Mr. Liddy—have a meeting with Mr. Liddy. I told him yes. He asked me for my keys, which I gave him. Then, at that point, he said, "You might as well come with me."

Senator WEICKER. All right.

And when did you interview Liddy?

Mr. LARUE. As I recall, it was the afternoon of January 20—I mean June 20.

Senator WEICKER. June 20 in the afternoon, this is when the briefing took place, is that correct?

Mr. LARUE. That is correct.

Senator WEICKER. And did you then return and brief Mr. Mitchell in the later afternoon of the 20th?

Mr. LARUE. That is my recollection, yes, sir.

Senator WEICKER. And at that briefing of Mr. Mitchell, was the information which you imparted to him a rather complete accounting as to Watergate and the events that led up to Watergate?

Mr. LARUE. I would say it was a rather complete accounting of Mr. Liddy's—of the discussions we had had with Mr. Liddy.

Senator WEICKER. Now, on Mr. Mitchell's logs, it has you meeting at around 8 in the evening with Mr. Mitchell on the 20th. Would that be the time when you returned to give him your report?

Mr. LARUE. That would—

Senator WEICKER. Roughly.

Mr. LARUE. That would roughly fit into the proper time period, yes, sir.

Senator WEICKER. The same logs indicate a phone call to the President at around 6 o'clock. Were you in the room when Mr. Mitchell called the President?

Mr. LARUE. I do not recall being there when he called the President.

Senator WEICKER. And then the only other date would be that of June 30, the day that John Mitchell resigned as campaign chairman. I gather he had a meeting with you at 9:35 in the morning that he resigned. Is that correct?

Mr. LARUE. Yes, sir, that would be—as I recall, it would be the approximate time of a meeting I had.

Senator WEICKER. And you were joined by Mr. Mardian?

Mr. LARUE. That is correct. Mr. Mardian and Mr. Magruder, as I recall.

Senator WEICKER. Did Mr. Mitchell indicate to you that he was going to meet with the President and resign?

Mr. LARUE. Senator, I may be confused on the time frame. The meeting I am referring to with Mr. Mitchell occurred on the day that Mr. Mitchell's resignation was announced. Is this what we are talking about?

Senator WEICKER. Yes; I am talking about June 30, which was the day that Mr. Mitchell resigned. I am referring to his logs, which in effect have meetings with you at 8:35 and with Mr. Mardian joining you at 9:45, and then have Mr. Mitchell meeting with the President at 12:30 in the afternoon.

Mr. LARUE. I am straightened out to the time now. What was your question, Senator?

Senator WEICKER. My question was whether or not Mr. Mitchell discussed with you and Mardian his resignation?

Mr. LARUE. Not at that time. Mr. Mitchell discussed his resignation with me late that afternoon.

Senator WEICKER. After he had talked with the President?

Mr. LARUE. Yes, sir.

Senator WEICKER. Well, what did he talk with you about before he went in to see the President? And this is a rather significant day, I would imagine, the day of his resignation.

Mr. LARUE. His resignation—he did not discuss his resignation with me or at that meeting.

Senator WEICKER. You had no idea he was going to resign?

Mr. LARUE. No, sir.

Senator WEICKER. I have no further questions.

Senator ERVIN. Mr. LaRue, I have been impressed by the testimonial trustworthiness of your testimony. I cannot refrain from saying I think that you have pursued the right course, and you have the benefit of what anyone in trouble needs the most, and that is the services of a lawyer whose legal learning, wisdom, and intellectual integrity enable him to serve the best interests of his clients in the finest way.

Now, I want to ask you a few questions: As I understand it, you know that prior to the break-in of the Democratic national headquarters in the Watergate that the proposal of G. Gordon Liddy to commit burglary and bugging on the Democratic national head-

quarters was discussed by and between John Mitchell, the director of the Committee To Re-Elect the President, and his deputy director, Jeb Magruder, don't you?

Mr. LARUE. Yes, sir.

Senator ERVIN. You also know that at the meeting, that this discussion occurred in your presence at the meeting in Key Biscayne, between Mitchell, Magruder, and you?

Mr. LARUE. That is correct.

Senator ERVIN. You also state that you know you disapproved of the project not on moral grounds but on the grounds that the risk of carrying out the project was too great.

Mr. LARUE. Senator, I would like to clarify that, if I may.

My statement was that I considered that—did not consider the plan worth the risk. However, I think inherent in that statement are the moral considerations and the legal considerations. If it was not morally wrong or if it was not legally wrong there would be no risk involved.

Senator ERVIN. Yes.

Now, you also know that John Mitchell did not disapprove of the project at that meeting, in your presence?

Mr. LARUE. That is my recollection, Senator; yes, sir.

Senator ERVIN. He said that that was a matter that did not have to be determined or decided at that meeting.

Mr. LARUE. That is to the best of my recollection, yes, sir.

Senator ERVIN. And you are not able to either affirm or disaffirm that John Mitchell subsequently by word or wink or nod conducted himself in such a way as to give Magruder the impression that Mitchell had approved it?

Mr. LARUE. I can only state that he did not conduct himself in such a way in my presence, Senator.

Senator ERVIN. Now, if I understand your evidence correctly, before the 17th of June, 1972, Jeb Magruder did assert in your presence something that you contraverted and that was that John Mitchell had approved of the Liddy proposal at the meeting in Key Biscayne?

Mr. LARUE. Did you say prior to June 17?

Senator ERVIN. Yes.

Mr. LARUE. No, sir.

Senator ERVIN. I thought you said you and he had some discussion.

Mr. LARUE. This would be subsequent to June 17, Senator.

Senator ERVIN. Subsequent to June 17?

Mr. LARUE. Yes, sir.

Senator ERVIN. I am sorry I was mistaken as to the date on it.

Well, anyway, at some time you were present in Magruder's office when he received a phone call from Charles Colson of the White House staff in which Colson wanted him to expedite the Liddy budget.

Mr. LARUE. Senator, as I testified yesterday, to the best of my recollection, this was a conversation which Mr. Magruder and I had subsequent to June 17. We were speculating on who may have had knowledge of the Watergate incident, and during this conversation Mr. Magruder related to me the phone call he had had from Mr. Colson requesting action on the Liddy budget. But I have no recollection of being in the office when that phone call was made.

Senator ERVIN. Well, just to clarify the thing, you had no knowledge of any burglary proposal or bugging proposal prior to the 17th

day of June except that which you got in the meeting with Magruder and Mitchell at Key Biscayne?

Mr. LARUE. That is correct, Senator.

Senator ERVIN. Now, you, Mardian, and Mitchell were in Los Angeles, Calif., when the news broke that the five men, including the security chief for the Committee To Re-Elect the President, had been caught redhanded in the act of burglary in the Watergate, Democratic national headquarters, didn't you?

Mr. LARUE. Yes, that is correct.

Senator ERVIN. On that day and shortly after that news came—Magruder said something to the effect that that was the night that Liddy was supposed to or the Liddy plan was supposed to be implemented in respect to the burglary of the Watergate?

Mr. LARUE. He indicated that to me; yes, sir.

Senator ERVIN. Now, shortly thereafter the news came in the press by the media of communications that not only had five burglars been caught in the Watergate, but that four of them had money in their pockets at the time which had come from the Committee To Re-Elect the President, directly or indirectly?

Mr. LARUE. Senator, I can't recall exactly when the revelations of the—or the tracing of the money back to the committee appeared in the press. I don't know if it appeared in the press that day or not; I just don't recall.

Senator ERVIN. Well, it didn't appear on that day but within a period of some days or a few weeks?

Mr. LARUE. Yes, sir, that is correct.

Senator ERVIN. And naturally you became concerned with the possibility that the persons charged with enforcing the criminal law might undertake to trace this money, and trace criminality from the Watergate into the Committee To Re-Elect the President?

Mr. LARUE. Yes, sir, that is correct.

Senator ERVIN. And after you and Mr. Mitchell and Mr. Mardian and Mr. Magruder had returned to Washington, you all had, together with Mr. Dean, almost daily conversations among yourselves with respect to the dilemma which had been posed by this tragic event?

Mr. LARUE. That is correct, Senator.

Senator ERVIN. And you all were concerned with the reelection of the President, President Nixon, and you felt, and so agreed among yourselves, that it might have tragic repercussions of the responsibility for this burglary was traced by the public or by the press or prosecuting attorneys into the Committee To Re-Elect the President?

Mr. LARUE. Senator, I can't recall any meetings or discussions with these individuals in which that was discussed. I can only say that certainly I had this concern, and this is what motivated my actions.

Senator ERVIN. Well, don't you know from your conversations with Mr. Mitchell, Mr. Mardian, Mr. Dean, and Mr. Magruder that they also shared that concern?

Mr. LARUE. I would assume they did; yes, sir.

Senator ERVIN. Yes; and so it was either expressly or impliedly agreed among you all, that is Mr. Mitchell, Mr. Mardian, Mr. Magruder, Mr. Dean, and yourself, that you would do everything in your power to keep any information about any connection between the burglary and the Committee To Re-Elect the President a secret.

Mr. LARUE. Senator, that, as I say, is what motivated my actions and that certainly was my impression of what I was doing. As far as the other individuals, I just can't speak for them.

Senator ERVIN. Well, you had conversations with them, you say, about this matter almost daily.

Mr. LARUE. Yes, sir, I did.

Senator ERVIN. For weeks?

Mr. LARUE. Yes, sir, but I do not recall any conversation in which I said—

Senator ERVIN. I am not asking what you said in the conversation. I am just asking you if you do not know, and if you do not infer in your own mind and know in your own mind from conversations with the others whom I have mentioned that they shared your desire to keep from the public and keep from the press and keep from prosecuting attorneys knowledge of the events that had happened in connection with this matter in the Committee To Re-Elect the President?

Mr. LARUE. That would be my inference, Senator; yes, sir.

Senator ERVIN. Yes, sir.

Now, was it not also in an effort to—or did you not apprehend that there was danger that some of the five burglars and that there was danger that Mr. Liddy and Mr. Hunt, after they were arrested, might in the common parlance, “spill the beans” about this matter?

Mr. LARUE. Did I have an apprehension about that?

Senator ERVIN. Yes.

Mr. LARUE. Yes, sir.

Senator ERVIN. And so, thereupon, you joined other persons connected with the Committee To Re-Elect the President in an effort to finance these people pending their trials and finance their legal defense?

Mr. LARUE. Senator, yes, I engaged in such activity, as I have testified here previously.

Senator ERVIN. And you know that some \$400,000 was furnished directly or indirectly at the instance of members of the Committee To Re-Elect the President, if not at the instance of aides in the White House, to the families and counsel for these seven Watergate defendants?

Mr. LARUE. That is correct, Senator; yes.

Senator ERVIN. And how much of this money did you yourself pay or deliver to any of these defendants or their counsel?

Mr. LARUE [conferring with counsel]. As I add up these figures, Senator, I come up with a figure of \$242,000.

Senator ERVIN. Now, was that additional to money that was delivered to them through the arrangements with Kalmbach and Ulasewicz?

Mr. LARUE. Yes, sir.

Senator ERVIN. And as a result of this we had a situation which arose which is calculated as to pollute justice, that is, the prosecution of these seven men was in the hands of men who held offices at the pleasure of the President, and the Committee To Re-Elect the President was furnishing the money to pay the lawyers who were supposed to defend these men; is that not true?

Mr. LARUE. Yes, sir, that is true.

Senator ERVIN. And that kind of a situation is enough to make justice weep, is it not?



Mr. LARUE. I agree with that, Senator.

Senator ERVIN. Yes.

Now, Mr. Liddy had assured you and Mr. Mardian in the meeting that you had in your apartment in which Mr. Liddy told about his actions, and that he, Liddy, had conducted himself so that no traces connecting anybody would lead to any persons other than the seven people indicted?

Mr. LARUE. No; he assured us, Senator, that it would not lead beyond the five people who had gotten caught.

Senator ERVIN. Would not lead beyond the five?

Mr. LARUE. Yes, sir.

Senator ERVIN. Yes.

Now, in addition to pursuing a policy of secrecy in respect to the knowledge possessed by you and in addition to paying money to the lawyers and the defendants and their families, a movement also arose in the Committee To Re-Elect the President to manufacture a story to explain how it was that Magruder had paid \$199,000 to Liddy, was it not?

Mr. LARUE. Yes, Senator. There was a story evolved, a so-called protective story. This story was the product of Mr. Magruder's efforts. I do not recall anyone else at the committee urging Mr. Magruder to come up with this story or, in fact, helping him come up with it. My understanding, my recollection of the facts is that Mr. Magruder evolved this story himself.

Senator ERVIN. So Mr. Magruder came up with the story that he told you that he was prepared to go before the grand jury and testify that he had given Liddy far less than the \$199,000, did he not?

Mr. LARUE. No, Senator, I do not think he ever told me that he was prepared to do that. There was a discussion, an initial discussion, early after the break-in, as to how much money was given Mr. Liddy, and I think there was an honest difference of opinion as to how much money this was and ultimately, Mr. Sloan furnished us with what I consider, or I assume, is the correct figure, the \$199,000.

Senator ERVIN. Well, Mr. Magruder did in substance inform you that he, Magruder, was prepared to commit perjury if necessary to prevent the complicity—from leading him to disclose that there was complicity in this matter in the Committee To Re-Elect the President?

Mr. LARUE. That is correct, Senator.

Senator ERVIN. And nobody, so far as you know, attempted to dissuade him from that course of action?

Mr. LARUE. I did not, Senator, and I know of no one else attempting to dissuade him.

Senator ERVIN. Now, after Liddy made a revelation to you and Mardian in your apartment, in this meeting in your apartment, Mardian informed John Mitchell about what Liddy had said, did he not?

Mr. LARUE. That is correct; yes, sir.

Senator ERVIN. And where did you get the money that you paid to these lawyers, for the benefit of these lawyers and their clients?

Mr. LARUE. \$81,000 came from the Committee To Re-Elect the President.

Senator ERVIN. And where did the remainder come from?

Mr. LARUE. \$30,000 came from Mr. Ulasewicz; \$330,000 came from Mr. Strachan, and there was a \$14,000 contribution from Mr. Babcock.

Senator ERVIN. Well, do you know whether or not that \$300,000 that came from Mr. Strachan was a part of the \$350,000 which Mr. Strachan had carried in a briefcase from the offices of the Committee To Re-Elect the President to Mr. Bob Haldeman in the White House?

Mr. LARUE. That is my understanding, Senator.

Senator ERVIN. How did you find out that this \$300,000 was available?

Mr. LARUE. Senator, I was aware of the \$350,000 fund in the White House and when there was a need for funds for my activities, I inquired of Mr. Mitchell whether it would be possible to use this money for these purposes, and he suggested that I take this up with Mr. Dean, which I did. Subsequently, these moneys were made available.

Senator ERVIN. And this \$300,000 was all handled in a cash transaction?

Mr. LARUE. That is correct.

Senator ERVIN. And it was common knowledge—that is, knowledge on your part and Mr. Dean's and apparently, Mr. Mitchell's—that Mr. Bob Haldeman, the chief of staff for the President, had in the White House somewhere in excess of \$300,000 in cash, which he had received through Mr. Strachan from the Committee To Re-Elect the President.

Mr. LARUE. Senator, I was aware of the money in the White House. As to who controlled it or who actually had possession of it, I did not know. I had no knowledge of that.

Senator ERVIN. You didn't have any knowledge of what?

Mr. LARUE. As to who actually had possession of the money or who controlled it, I did not have that knowledge.

Senator ERVIN. Didn't Mr. Strachan tell you, or Mr. Dean?

Mr. LARUE. Senator, I can't recall any conversation with Mr. Dean in which he outlined who controlled this fund or who had possession of it. It was just always referred to as White House money.

Senator ERVIN. Well, don't you agree with me that it would have been far more appropriate to have kept this money in the bank rather than in the White House?

Mr. LARUE. Well, Senator, I guess it would be more appropriate. My understanding is that the money was originally transferred to the White House for their own private polling purposes. As to the appropriate—how appropriate this is, I really didn't give it much consideration at that time.

Senator ERVIN. Well, don't you agree, in light of hindsight, that it was not very appropriate to use money contributed to elect the President to keep burglars silent?

Mr. LARUE. I will agree with that, Senator; yes, sir.

Senator ERVIN. I can't resist the temptation to philosophize just a little bit about the Watergate.

The evidence thus far introduced or presented before this committee tends to show that men upon whom fortune had smiled benevolently and who possessed great financial power, great political power, and great governmental power, undertook to nullify the laws of man and the laws of God for the purpose of gaining what history will call a very temporary political advantage.

The evidence also indicates that the efforts to nullify the laws of man might have succeeded if it had not been for a courageous Federal judge, Judge Sirica, and a very untiring set of investigative reporters. But

you come from a State like the State of Mississippi, where they have great faith in the fact that the laws of God are embodied in the King James version of the Bible, and I think that those who participated in this effort to nullify the laws of man and the laws of God overlooked one of the laws of God which is set forth in the seventh verse of the sixth chapter of Galatians:

Be not deceived. God is not mocked; for whatsoever a man soweth, that shall he also reap.

[Applause.]

Mr. DASH. Mr. Chairman, whatever few mundane questions I might have to follow up I don't believe I really need to ask, and I think the record is complete. I have no further questions.

Senator BAKER. Mr. Chairman, I can't resist the temptation. [Laughter.]

I have already been cautioned that my analogy to the revised standard version instead of the King James version may be controversial, so I will refrain from that.

But I might just say, Mr. Chairman, that, as we have with other witnesses, I want to thank Mr. LaRue for his testimony. I think it is unique. I think it is useful. I think it is important. I think that it is in conflict and in corroboration with other testimony that we have received. At some point, the committee will have to turn its attention, presumably, to the matter of weighing the evidence, if we can't reconcile those conflicts, in deciding where the truth lies. We will turn to whatever sources of information we can receive or gain access to in that respect.

But I think we ought to conclude with this witness as we have with others, by saying, you have made a valuable contribution to the record, and for my part, we are grateful for it.

Thank you.

Mr. LaRUE. Thank you, Senator.

Senator ERVIN. I would like to order at this time, if there is no objection on the part of any member of the committee, that xeroxed copies of the correspondence which Mr. Vinson has furnished the committee be printed at the appropriate point in the record.

[The documents referred to were marked exhibit No. 88.\*]

Senator ERVIN. Mr. Vinson, do you have a statement?

Mr. VINSON. Yes, sir, if the committee will indulge me for about 2 minutes. Mr. Chairman, we have the transcript of yesterday's hearing and there is one matter I should straighten out before Mr. LaRue departs.

On page 4579, Mr. Dash asked a question:

As a matter of fact, it is quite possible that you were out of the room at certain times?

This refers to the March 30 Key Biscayne meeting, which we have heard so much about.

Mr. LaRUE. That is a possibility. I have no recollection of that.

Mr. LaRue told me this morning that he was replying in the time frame of the discussion of the memorandum about the Liddy plan. In fact, as Mr. LaRue had told the staff previously, he has a specific recollection of being in and out of the room several other times, may have been out of the room, has no specific recollection at this time.

\*See p. 2635.

Senator ERVIN. Well, thank you very much.

Mr. LaRue, on behalf of the committee, I want to thank you for the complete cooperation which you have given the committee at this time.

Mr. LaRue. Thank you, Senator.

Mr. VINSON. Thank you, Senator, for your courtesies, and the staff.

Senator ERVIN. You are excused now.

Mr. LaRue. Thank you, Mr. Chairman.

Senator ERVIN. Counsel will call the next witness.

Mr. DASH. Mr. Robert C. Mardian will please come to the witness table.

Senator ERVIN. Mr. Mardian, will you stand up and raise your right hand? Do you swear that the evidence that you shall give to the Senate Select Committee on Presidential Campaign Activities shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MARDIAN. I do.

Senator ERVIN. Will you please state your full name and your residence for the record?

#### **TESTIMONY OF ROBERT C. MARDIAN, ACCOMPANIED BY DAVID BRESS, COUNSEL**

Mr. MARDIAN. My name is Robert C. Mardian. My address is 2323 North Central Avenue, Phoenix, Ariz.

Senator ERVIN. I observe that you are accompanied by counsel. Will counsel please identify himself for the purposes of the record?

Mr. BRESS. My name is David Bress. I am a lawyer in Washington, D.C.

Mr. DASH. Mr. Chairman, Mr. James Hamilton, assistant chief counsel, will ask the questions of this witness.

Mr. HAMILTON. Mr. Bress, I understand that you have a brief statement that you want to make before you begin.

Mr. BRESS. Yes, Mr. Hamilton.

Mr. Chairman, Mr. Mardian has conferred on two occasions with the U.S. attorney's office in May 1973 before his appearance before the grand jury on May 7. In those conferences and grand jury appearance, Mr. Mardian at no time asserted any constitutional privilege he might have, and he asserts none today.

He did, however, on my advice, assert the attorney-client privilege insofar as questions related to conversations he had with Mr. Liddy on June 21, 1972. But as to all other attorney-client communications with other persons no privilege was asserted because we were satisfied that such other persons had waived the privilege. Accordingly, by prearrangement with the U.S. attorney's office, when questions were propounded before the grand jury relating to his communications with Mr. Liddy, all counsel proceeded to Judge Sirica's court on the same day and argued the matter. After taking it under advisement the court ordered the questions to be answered and this was done.

Later, Mr. Mardian spent 2 days conferring with the staff of this committee on June 1 and July 14, 1973. All questions were fully answered, and he now stands ready to answer any further questions after he makes a short introductory statement, a copy of which has been furnished to the staff.

Senator ERVIN. Thank you, Mr. Bress.

Senator BAKER. Mr. Chairman, could I ask a question to make sure I fully understand the burden of counsel's statement? Is it insisted that there is an existing extant attorney-client privilege between the witness and Mr. Liddy that is ascribed today?

Mr. BRESS. No, sir; I have made the point that the attorney-client privilege was asserted but that we feel bound by the determination on that question by Judge Sirica on May 7, the day when he appeared before the grand jury and we will comply with that ruling so that no privilege on the attorney-client basis is being asserted today in any form.

Senator BAKER. Thank you.

Senator ERVIN. You may read your statement.

Mr. MARDIAN. Thank you. I was born in Pasadena, Calif., October 23, 1923. I graduated from law school in 1949, and from that time in to 1969, except for my involvement in my family business in Phoenix, Ariz., I was engaged either in private practice or as general counsel, from 1962 to 1969, for a financial institution.

In 1969 I was appointed general counsel for the U.S. Department of Health, Education, and Welfare, which title I held until September 1970. During the period commencing January 1970 and until November 1970, I was also the Executive Director of the Cabinet Committee on Education, which was charged with the responsibility of of implementing the administration's school desegregation policies, principally in the Southern States.

From November 1970 until May of 1972, I was Assistant Attorney General, Internal Security Division, U.S. Department of Justice. Commencing May 1, 1972, until the election, I was employed at the Committee To Re-Elect the President. On November 10, 1972, we moved from Washington, D.C., and we have, since that time, resided in Phoenix, Ariz., where I have been engaged in business with my three brothers.

Almost from the beginning of my tenure at the Justice Department there were rumors in the press and other public media that the Attorney General, John Mitchell, would leave the Department of Justice sometime in 1971 to head the 1972 Presidential campaign. There were also rumors starting in the fall of 1971 that I would be leaving the Justice Department to assist Mr. Mitchell in the campaign effort.

I do not recall discussing with Mr. Mitchell his intentions regarding the campaign until the fall of 1971. As best as I can recall, he told me that it had not been finally decided whether or not he would be heading up the campaign effort. I cannot recall discussing my possible involvement in the campaign with him until sometime in January of 1972. I had agreed with my wife, prior to that time, to leave the administration at the end of the President's first term. In anticipation of this, we took advantage of an opportunity to sell our home in McLean, Va., in January 1972, and moved into an apartment in Washington.

Although I had never discussed with Mr. Mitchell my specific role in the campaign, I agreed in February of 1972 to accept Mr. Mitchell's invitation to join the campaign organization, which I did on May 1, 1972.

I was, as has been testified to, appointed originally as a campaign coordinator, but with respect to the events which are subject of this committee's inquiry, I should point out that I had not in my capacity

as one of the political coordinators or otherwise been consulted, advised, or favored with any information relating to the "dirty tricks" campaign which has now come to light, much less given even a hint of any proposed burglary or electronic surveillance. I was not included until my help was needed as a lawyer and, if I make no other point in this brief prefatory statement, I would like it in the record that as of the morning of June 17, 1972, I was relieved of my political responsibilities to the extent possible and charged with the responsibility of acting as counsel to the committee, at least as far as Watergate was concerned. I accepted this responsibility with the understanding that I would obtain the assistance of independent legal counsel and that I would be relieved of this legal responsibility when they were sufficiently acquainted with the facts to handle the matter.

I should also like to make it clear that I was, and probably still am, one of the attorneys of record in the litigation pending between the Democratic National Committee and the Committee To Re-Elect the President, and others. Thus, it was as a lawyer, not as a political associate, that those persons confided in me and that this was made clear to me, not by implication, but by express statement. And that it was as a lawyer and not as a political protege that I agreed to maintain the fiduciary obligation not to disclose that which was confided in me. If this be the basis of the broadbrush charge of "coverup," then it is a charge that every lawyer must, under our adversary system of criminal justice—a system that requires a lawyer to respect the confidence of his client until waived by the client, no matter how helpful it might be to the lawyer to disclose. I adhered to this principle in seeking a court ruling on the attorney-client privilege before testifying in May before the grand jury. In the light of the court's ruling and the waivers resulting from the testimony of others, I feel no constraints now and can fully discuss the facts with which I am familiar without causing the public or the bar to feel that I have not fully adhered to the duty of a lawyer to respect his client's confidence.

I would also like to say at this point that the information that I received on the morning of June 17 and June 21 was the most shocking experience in my entire legal career.

The facts thus learned thrust me into a situation which I can only compare, in terms of personal anxiety, to being caught in quicksand. Commencing the morning of June 17, 1972, information was imparted to me bit by bit, much of it contradictory, which drew me inexorably into an intolerable and, at times, unbearable situation of personal conscience—a situation in which I was precluded from acting according to the dictates of my personal desires or interests. A situation in which ultimately my only hope was the selfish one of not becoming implicated in the conduct of others who I felt it my duty to serve.

I am not at all sure of the exact sequence of events, or all the times, places, and parties present, but I shall attempt to relate, as fairly and as candidly as I can, the history of Watergate as I learned it.

That concludes my statement, and I am prepared to answer your questions.

Mr. HAMILTON. Thank you, Mr. Mardian.

Now, you stated in your statement that you are now engaged in a family business?

Mr. MARDIAN. Yes, sir.

Mr. HAMILTON. And I wish you would identify what business this is for the record and state your position with this business.

Mr. MARDIAN. The business is Mardian Construction Co., and I am a vice president of Mardian Construction Co.

Mr. HAMILTON. Is that in Phoenix?

Mr. MARDIAN. Yes, sir.

Mr. HAMILTON. Now, by way of background, Mr. Mardian, did you participate in the Presidential campaign of 1968 in Mr. Nixon's behalf?

Mr. MARDIAN. Yes, sir.

Mr. HAMILTON. And what duties did you have in this campaign?

Mr. MARDIAN. I was the western regional director for the campaign and had the responsibility for liaison in the Western States.

Mr. HAMILTON. And how many States did that entail, Mr. Mardian?

Mr. MARDIAN. It varied; originally, it was 6 and I believe later it was 12.

Mr. HAMILTON. Now, after the election, as you have testified, you joined the new administration.

Mr. MARDIAN. Yes, sir.

Mr. HAMILTON. You have already given us your Government positions and your tenure in each, so I do not want to dwell on that, but I do want to ask you several questions about your Government experience.

Now, while you were heading the Internal Security Division, did you have responsibility for the prosecution of the criminal case against Dr. Ellsberg?

Mr. MARDIAN. Yes, sir; I did.

Mr. HAMILTON. And were you also given in the spring of 1972 the task of guiding the Kleindienst nomination through the Senate?

Mr. MARDIAN. Yes, sir.

Mr. HAMILTON. During your Government experience did you work closely with John Mitchell?

Mr. MARDIAN. Yes, sir.

Mr. HAMILTON. And do you still maintain a close relationship with John Mitchell?

Mr. MARDIAN. My relationship was a close professional-personal relationship. I have not maintained, I still consider him my friend but I have not talked to Mr. Mitchell or seen Mr. Mitchell since the inaugural. I believe I talked to him on the telephone at or about that time in connection with an appointment.

Mr. HAMILTON. Now, I believe in your statement you testified that on the first of May you joined the reelection committee, is that correct?

Mr. MARDIAN. Yes, sir.

Mr. HAMILTON. And did you come to the reelection committee at John Mitchell's behest?

Mr. MARDIAN. Yes, sir.

Mr. HAMILTON. Now, excepting any functions that you later received in regard to the Watergate matters, could you tell us what your major duties were at the Committee To Re-Elect the President, and would you also tell us what the official titles of your positions were?

Mr. MARDIAN. When I first got there the situation was in a—I can only describe it as a state of confusion, and I had no title. I had assumed, and I think in fairness I should say that this assumption was purely subjective on my part, that I was going to the committee to be Mr. Mitchell's deputy. When I got there there wasn't even an

office for me, and it wasn't until—I don't know when it was in the point of time, that a memorandum was sent to me indicating that I, along with four other people, would be appointed as political coordinators.

Mr. HAMILTON. Did you maintain the position of political coordinator during your entire stay at the committee or did you subsequently have a change in title?

Mr. MARDIAN. I believe after—it may have been after the convention I am not sure; it may have been after Mr. MacGregor, I believe I was named special assistant or assistant to the campaign director, I am not quite sure on the timing of that.

Mr. HAMILTON. Could you give us in a nutshell your duties in regard to the campaign, excluding, as I said before, those that you took on in regard to Watergate?

Mr. MARDIAN. As I have tried to indicate, there were organizational problems at the committee when I got there, and the title campaign coordinator was never really defined for me. I devoted most of my time in the 5 or 6 weeks before Watergate to primarily the political organizations in the Western States, much the same as I had done in 1968.

Mr. HAMILTON. Mr. Mardian, you said in your statement that you had no knowledge of the plans and activities that led to the break-in at the Democratic National Committee headquarters on the 17th of June. Did you, prior to June 17, 1972, have knowledge of any covert intelligence plans or operations that had as their purpose the gathering of information for political purposes?

Mr. MARDIAN. None whatsoever, and I have been involved in numerous campaigns and it's the first time I have ever heard of this type of activity in a campaign. It may have gone on, but I never was aware of it.

Mr. HAMILTON. When did you first learn of the break-in at the Democratic headquarters?

Mr. MARDIAN. On the morning of June 17.

Mr. HAMILTON. And where were you at the time?

Mr. MARDIAN. I was at the Airporter Hotel in Englewood, Calif.

Mr. HAMILTON. Would you please relate to the committee in some detail how you were first informed of the break-in and what details you were told at that time?

Mr. MARDIAN. I had made arrangements to have Mr. Mitchell meet with the party people and the CRP people in California. It was a large meeting, scheduled, the initial meeting, at 11 o'clock that morning with a joint meeting of the various county chairmen from the two organizations, the regular party organization and the CRP.

We were on our way to the hotel, from one hotel to the other; we were following a limousine in which Mr. Mitchell and Governor Reagan were riding and present with me were the national committee-man from California, Mr. Magruder, and Mr. LaRue; and Mr. Magruder told me in the car on the way to the Airporter that he had a slight PR problem he wished to discuss with me. [Laughter.]

I suggested to Mr. Magruder if it was a PR problem that he was better able to handle it than I was. I had arranged the meeting, and I knew most of the people there, and Mr. Mitchell didn't. He told me



that it was a PR problem that required a lawyer. I attempted to elicit from him in the car what it was, and he indicated, I believe more by gesture, that he could not speak in the presence of the national committeeman from California. When we arrived at the Airporter Hotel, and I believe it was around 11 o'clock, or sometime, a few minutes before, Mr. Magruder detained me and said that it was essential that he brief me on his PR problem, and that Mr. Mitchell had told him to tell me to forget the meeting until I got the information he was to impart to me.

I don't know for sure where this briefing took place. I have heard the testimony of witnesses and it is hard to remember what I have heard here and what occurred, but, to the best of my recollection, we went to a banquet room immediately adjoining the large meeting room where the political meeting was to take place. I thought that Mr. LaRue was with us; I heard his testimony this morning, which would indicate that possibly he wasn't. My recollection is that Mr. LaRue was present when Mr. Magruder briefed me.

He told me that he had had a call—again my recollection originally was that it was from Mr. Odle, it is now that it was from Mr. Liddy, Mr. Odle did call me about the Watergate subsequently—that he had had this call from Mr. Liddy and he had been informed that Mr. McCord, who was the security officer for the committee, along with five Cuban-Americans, maybe four, I am not sure, had been arrested in a break-in of the Democratic National Committee headquarters.

He told me that the people arrested all had fake ID cards, which Mr. Hunt had procured for them from the CIA, and that although they were incarcerated the identities of the accused were not known.

He told me that, I guess in response to my question of how and why, he told me that Mr. Liddy was some kind of a nut; he should have suspected that something like this would happen; he regretted that he had not insisted on firing him when he attempted to some weeks or months before. I believe there was more that he told me and that it is difficult to recall extemporaneously now.

Oh, I believe that came later. I have given testimony to the staff on two occasions and I may have left something out.

Mr. HAMILTON. Well, Mr. Mardian, did there come a time later that afternoon when you had a further discussion with Mr. Mitchell and Mr. Magruder and Mr. LaRue as to the details of the events surrounding the break-in?

Mr. MARDIAN. Counsel has just reminded me there was one other thing that I was informed of at that time. That was that this was—I am sorry. May I—

Mr. HAMILTON. If you would like to answer my previous question, go ahead. In other words, about your first information of the break-in.

Mr. MARDIAN. He also told me, I believe, that this was not the first break-in of the Democratic national headquarters.

Mr. HAMILTON. Did Mr. Magruder tell you the source of his information that this was not the first break-in?

Mr. MARDIAN. Mr. Liddy.

Mr. HAMILTON. Now, did there come a time later that afternoon when you had a further discussion on the events surrounding the break-in with Mr. Mitchell and Magruder and LaRue?

Mr. MARDIAN. Yes; and here again, when we say Mr. Mitchell, Mr. Magruder, and Mr. LaRue, I can't say for sure that all parties were present at all times. I do recall a discussion with these gentlemen or some of them.

Mr. HAMILTON. What further facts did you learn in this discussion?

Mr. MARDIAN. I don't know when I learned it, but I learned it soon after we left the Airporter. As I recall, there were a series of meetings starting at 11 o'clock and ending—my memory in this regard is based solely on the schedule, a copy of which you and your staff furnished me or the U.S. attorneys furnished me. Mr. Mitchell—the last event on the schedule was a press conference at 1:30. I believe that press conference must have lasted a half hour or so, and assuming we got back to the Beverly Hills Hotel at 2:30 or thereabouts, I would guess, maybe 2:45; I am not quite sure.

I learned soon after we got back—it could have been in the car, but I would doubt it, since there was a driver who was a stranger; it was a hired car, a hired limousine—that the purpose, one of the purposes of the break-in was to fix a bug that had been previously placed in the Democratic national headquarters that was not working. I don't recall any more input on the break-in as of that time.

Mr. HAMILTON. Well, was there a discussion that afternoon about a budget that had been approved for dirty tricks and black advance?

Mr. MARDIAN. Yes; I believe that that was told to me by Mr. Magruder at the Airporter Hotel and, in other words, during that briefing, one of the items I think he told me there. Again, I am not certain of the sequence of events, but I believe that was the time.

Mr. HAMILTON. Mr. Mardian, I think after 2 months, we know what dirty tricks refers to, but could you explain the term "black advance?"

Mr. MARDIAN. I will attempt to the best I can. I never heard the expression before. I assumed when they told me about it that it was for black advance men. I learned, however, that a black advance was a counter-advance that was carried on against the opposition candidates or persons acting on their behalf. In other words, an attempt to disrupt the advance schedule of the opposition.

Mr. HAMILTON. Did Mr. Magruder inform you who had approved the budget for dirty tricks and black advance?

Mr. MARDIAN. Yes.

Mr. HAMILTON. Whom did he say?

Mr. MARDIAN. He told me that the budget had been approved by Mr. Mitchell.

Mr. HAMILTON. Did Mr. Mitchell later that afternoon confirm that he had approved such a budget?

Mr. MARDIAN. I would like to put it this way: It is my best recollection that I think the subject was discussed and he didn't deny it.

Mr. HAMILTON. Did Mr. Magruder or Mr. Mitchell—

Mr. MARDIAN. Pardon me, but trying to be eminently fair, I am not positive that it was discussed, but I feel that it was because I was trying to get at the fact. I didn't know the facts. I hadn't heard of black advance or dirty tricks and it certainly must have come up in the discussion.

And again, it may have come up when Mr. Mitchell wasn't in the room. I want to be fair on that point.

Mr. HAMILTON. Well, what is your best recollection as to whether Mr. Mitchell was in the room when that was discussed?

Mr. MARDIAN. That is my best recollection. I am trying to be fair, however. When you ask about meetings and I have heard all types of meetings took place in Mr. Mitchell's office and other places. With respect to Mr. Mitchell's office, any time anybody walked in the room, as I understand it, his secretary would log it and that was a meeting. Sometimes, you would walk in to see that somebody else was there and you would walk out and you attended a meeting. I hate to characterize a formal meeting where he sat down and admitted that he had approved a black advance budget. That is my best recollection that he was present and that I discussed it.

Senator ERVIN. If counsel would excuse me for interjecting this remark at this time, I don't know any way that any human being can testify as to a past event except by giving his best recollection.

Mr. MARDIAN. Thank you.

Mr. HAMILTON. Mr. Mardian, while in California, did you receive an assignment from Mr. Mitchell regarding the Watergate matter?

Mr. MARDIAN. Could you be more specific?

Mr. HAMILTON. All right.

Did Mr. Mitchell assign you to deal with the legal matters that might arise in connection with the break-in?

Mr. MARDIAN. Yes.

Mr. HAMILTON. Mr. Mardian, while in California, did you make several telephone calls to Mr. Liddy?

Mr. MARDIAN. I believe that my records show that—which I have turned over to the committee and these are records of calls that I turned in to the Committee To Re-Elect the President—that I talked to Mr. Liddy on three occasions—two occasions—three occasions. The records show three and there were three, but one of the ones that the record shows was not a call to Mr. Liddy, as I recall.

Mr. HAMILTON. Do you remember when these calls took place—on Saturday or Sunday?

Mr. MARDIAN. The first time I talked to Mr. Liddy, I believe, was on Saturday and that was not a call from me to him, but a call from him to me, as I recall. It is possible I may have returned the call, but—that is my best recollection.

Mr. HAMILTON. Did you also talk to Mr. Liddy on Sunday?

Mr. MARDIAN. I talked to Mr. Liddy on Sunday twice, as I recall.

Mr. HAMILTON. Now, can you give us the best recollection you have of the substance of these three telephone calls?

Mr. MARDIAN. The first telephone call was a—as I recall—was an urgent demand on the part of Mr. Liddy that I return to Washington. I had indicated in that call, as I understand it, that Mr. Magruder was going to return, that he did not want Mr. Magruder to return, he wanted me to return. He was very reluctant to—not only reluctant, he refused to use the telephone to discuss anything about Watergate. He did, however, make some derogatory remarks about Mr. Magruder. That is all I recall about the first telephone call.

Mr. HAMILTON. Would you go on to the second and the third, please?

Mr. MARDIAN. I had told Mr. Liddy about the plans that I heard, that Mr. Magruder was going to return, I would communicate with Mr. Mitchell, and I will let him know.

Mr. HAMILTON. And the final telephone call?

Mr. MARDIAN. Well, that was the first telephone call.

The second telephone call, as I recall was when I called to tell him that I was not going to return and that Mr. Magruder had left—had returned.

Mr. HAMILTON. And what was the final telephone call?

Mr. MARDIAN. The final telephone call was with respect to a call I got from Powell Moore. Powell Moore called me on Sunday. I previously testified that these conversations, I testified originally that they were Sunday. I was told that they were on Saturday. I wasn't sure. I have now, checking the records of the calls, that these calls took place on Sunday.

Powell Moore called me to tell me of an occurrence the previous day. He said that he wanted me to know, for Mr. Mitchell to know, that Mr. Liddy had told him in his presence that he had received a call from Mr. Mitchell, that Mr. Mitchell had instructed him to go see Mr. Kleindienst and to have Mr. Kleindienst get the Watergate burglars released from jail. He told me that he did not believe that these instructions came from Mr. Mitchell.

He told Mr. Liddy that he should not contact Mr. Kleindienst; that when he realized that he was, in fact, going to contact Mr. Kleindienst, he went with him; that Mr. Liddy made contact with Mr. Kleindienst at the Burning Tree Country Club and that in order to advise Mr. Kleindienst that he was not to pay any attention to Mr. Liddy, he said he stood behind Mr. Liddy so that Mr. Liddy could not see him, but that Mr. Kleindienst could, and shook his head as violently as he could so that Mr. Kleindienst would know that what he was telling him was an untruth.

He told me that Mr. Kleindienst, in effect, had told Mr. Liddy to go to hell, and as I understood it, went on playing golf.

I then called Mr. Kleindienst. I think I told Mr. Mitchell about it. Mr. Mitchell was amazed. I believe I told—I then called Mr. Kleindienst to tell him that Mr. Mitchell had given no such instructions and Mr. Kleindienst told me, I believe, that he was satisfied that he had not given any instructions and in effect, said, keep that—he used an adjective—away from me.

I then called Mr. Liddy and reprimanded him; told him that Mr. Mitchell had given no instructions and that he had done a very, committed a very embarrassing error on the part of the Attorney General.

Mr. HAMILTON. Mr. Mardian, I want to read to you a portion of Mr. Magruder's testimony that is found at page 1910 of the record:

We knew that Mr. Mardian, who was there, was a closer friend of Mr. Liddy's than any one of us, and Mr. Mitchell asked Mr. Mardian to call Mr. Liddy and ask him to see the Attorney General, the current Attorney General, Mr. Kleindienst, and see if there was any possibility that Mr. McCord could be released from jail.

Mr. MARDIAN. That statement is not true.

Mr. HAMILTON. Mr. Mardian, can you suggest any reason why Mr. Magruder would falsely testify as to such a phone call on your part?

Mr. MARDIAN. I honestly—I don't think Mr. Magruder would intentionally falsely testify. The subject of the Liddy trip to see Mr. Kleindienst was much discussed. Mr. Liddy's position, or the story that Powell Moore told, was that, as I recall, that John Mitchell had called

Liddy. Here again, I can't fathom the reason that that is the way it came out in his memory. I think Mr. Liddy would be the one to answer that question.

And I can't imagine why Mr. Magruder would say that I was a friend of Liddy's, or a close friend of Liddy's, whatever he used to describe it. I had not seen Mr. Liddy, to my knowledge, except possibly in the hallway or once or twice from the time I was at the committee, and I certainly would not be classified as a friend of his by anybody that knows me.

Mr. HAMILTON. Well, if Mr. Liddy did not act pursuant to a request from you by telephone, can you give us any help as to what prompted Mr. Liddy to make his visit to Mr. Kleindienst?

Mr. MARDIAN. I can't help you on that, and if you examine what was asked, it was I was asked to call Liddy to see Kleindienst. Mr. Mitchell would have instructed me to call Kleindienst myself. I didn't need an intermediary for him. Mr. Kleindienst is a close friend of mine.

Mr. HAMILTON. Mr. Mardian, when did you leave California to return to Washington?

Mr. MARDIAN. We left on the morning of the 19th, I believe.

Mr. HAMILTON. And when you arrived in Washington, where did you go?

Mr. MARDIAN. I went home.

Mr. HAMILTON. About what time did you arrive?

Mr. MARDIAN. I have been unable to fix that. All I can recall, my recollection, my wife's recollection, is that it was dusk, which would place it in the neighborhood of 8 o'clock, or a little after.

Mr. HAMILTON. Now, after arriving home, did you go directly to Mr. Mitchell's apartment?

Mr. MARDIAN. Yes. When I say directly, I helped with the bags and I was on the plane for 5 hours, so it may have—

Mr. HAMILTON. And do you know what time you arrived in Mr. Mitchell's apartment?

Mr. MARDIAN. I have no recollection.

Senator BAKER [presiding]. Mr. Hamilton, could you suspend for just a moment?

There is a vote signal on the clock. It is 12:20 now. The chairman is temporarily away from the table. I think this might be a good time to recess.

The committee will stand in recess until 2 o'clock.

[Whereupon, at 12:21, the committee recessed, to reconvene at 2 p.m., the same day.]

#### AFTERNOON SESSION, THURSDAY, JULY 19, 1973

Senator ERVIN. The committee will come to order.

I am pleased to announce that Secretary Shultz has called me and advised me that the President has decided to make available to the committee tapes of conversations which may have been with witnesses before the committee and which are relevant to the matters which the committee is authorized to investigate.

Secretary Shultz has further advised me that the President will meet with me in my capacity as the chairman of the committee at a convenient time next week, and arrange procedures by which these tapes can be made available to the committee.

I am very much gratified by this information. I think the information will enable the committee to expedite its investigation, and I think it was a very wise decision on the part of the President.

Senator BAKER. Mr. Chairman, may I join in expressing my great delight at the decision of the President communicated to you by Secretary Shultz. I want to commend you as well as the members of the committee for handling this matter in a way that permitted this accord and this agreement to take place. The committee, I believe, forebore from trying to create a legal confrontation that might have jeopardized the possibility of negotiating a settlement to this controversy. It would appear that the White House has shown its spirit of cooperation and response.

I have nothing but commendation for the committee, especially for the chairman and for the President, in negotiating a rather delicate situation involving the most fundamental concept, that is, the doctrine of separation of powers, in a way that avoided a confrontation and will apparently give this committee access to relevant parts of extremely important information bearing on critical features of this inquiry.

Thank you.

Senator ERVIN. I would like to take this occasion to add these words. I do not believe that any investigating committee in the history of the Congress has been able, as we have been thus far, to investigate such highly controversial matter as we have been investigating with such unanimity of agreement among the committee members as to the steps to be taken, and with more wonderful cooperation on the part of all the members of the committee.

Counsel may resume the interrogation of the witness.

Mr. HAMILTON. Mr. Mardian, when we broke for lunch we were discussing the meeting in Mr. Mitchell's apartment on the evening of June 19, and I would like to return to that in my questioning.

Who was present at that meeting?

Mr. MARDIAN. Based upon my reconstructed recollection, I would say Mr. Mitchell, Mr. Magruder, Mr. Dean and, I believe, there was one PR person present from the office of public information; I am not sure of that.

Mr. HAMILTON. Was Mr. LaRue at that meeting?

Mr. MARDIAN. Mr. LaRue.

Mr. HAMILTON. Now, is there a possibility that the PR person, the press spokesman, actually met the party at the airport and did not return to Mr. Mitchell's apartment?

Mr. MARDIAN. It is possible because I do not have a very clear recollection of that meeting.

Mr. HAMILTON. Would you give us, to the best of your recollection, the topics that were discussed at this meeting?

Mr. MARDIAN. The only two things I recall of that meeting is that there was a need for a statement from the office of public information for Mr. Mitchell. I do not recall discussing it or participating in it. I do not recall what the event was. I recall discussing the need for obtaining the resources of a law firm, because I believe it was announced that day, or we were informed that night, that a lawsuit was going to be filed the next morning by the Democratic National Committee against the Committee To Re-Elect the President. And my best recollection is that there was a discussion as to who we should retain.

Mr. HAMILTON. Did you have the responsibility for securing lawyers for this purpose?

Mr. MARDIAN. Yes, sir.

Mr. HAMILTON. Which lawyers did you eventually retain for this?

Mr. MARDIAN. I retained Mr. Parkinson and Mr. O'Brien.

Mr. HAMILTON. Is that Ken Parkinson and Paul O'Brien?

Mr. MARDIAN. Yes, sir.

Mr. HAMILTON. And they are both local attorneys, is that correct?

Mr. MARDIAN. Yes.

Mr. HAMILTON. Now, at this meeting was there any discussion as to burning or otherwise destroying a Gemstone file or any other sensitive file?

Mr. MARDIAN. Not in my presence. I never heard the word "Gemstone" until this investigation this year came out. I will say that I left that meeting rather early, I wasn't there very long. I made numerous telephone calls that night from my apartment calling local counsel, people that I knew, getting recommendations for lawyers, and I know that I would not have been calling late in the evening and bothering people but I called a number of lawyers and talked to them about relative merits of different law firms and different lawyers.

Mr. HAMILTON. Do you remember any discussion at all of a sensitive file as opposed to the destruction of a sensitive file?

Mr. MARDIAN. No, sir.

Mr. HAMILTON. Mr. Mardian, I would like to read to you portions of Mr. Magruder's testimony and portions of Mr. LaRue's testimony of yesterday, and receive your comments. First from Mr. Magruder's testimony at pages 1913 and 1914:

Mr. DASH. Did you have a meeting on that evening, the evening of June 19, when you came back to Washington in Mr. Mitchell's apartment?

Mr. MAGRUDER. Yes. Mr. Mitchell flew back that Monday with Mr. LaRue and Mr. Mardian. We met in his apartment with Mr. Dean, Mr. Mardian and myself and the general discussion again was what were we going to do about the problem. It was again we had very little information. We did not, of course, know what type of investigation would then be had and we talked about times of alternative solutions. One solution was recommended in which I was to, of course, destroy the Gemstone file so I called my office and—

Mr. DASH. That solution came up as a result of that meeting?

Mr. MAGRUDER. Well, I think, yes. It was generally concluded that that file should be immediately destroyed.

Now reading from Mr. LaRue's testimony of yesterday at pages 4589 and 4590:

Mr. DASH. You said Mr. Magruder asked what he should do about these sensitive files?

Mr. LARUE. Yes, sir.

Mr. DASH. Did he get a response to that?

Mr. LARUE. As I remember, there was a response from Mr. Mitchell that it might be a good idea if Mr. Magruder had a fire.

Now, previous to that testimony Mr. LaRue had testified that you were at that meeting.

Do these portions that I have read of the testimony refresh your recollection as to what was discussed?

Mr. MARDIAN. I heard the testimony and I just read Mr. Dean's testimony—or Mr. Magruder's testimony, I am sorry. No such discussion took place in my presence.

Mr. HAMILTON. Can you—

Mr. MARDIAN. I think I would have recalled such a discussion had it taken place in my presence.

Mr. HAMILTON. Well, are you aware of any testimony by Mr. LaRue and Mr. Magruder that you left the meeting before destruction of the Gemstone file?

Mr. MARDIAN. I don't think anybody asked that question and I don't think anybody asked Mr. LaRue when I arrived. Maybe they did. I don't know.

Mr. HAMILTON. But you know of no statement by Magruder or LaRue here or otherwise that you were not present at this meeting when the destruction of the Gemstone file took place?

Mr. MARDIAN. Well, I haven't talked to them.

Mr. HAMILTON. Mr. Mardian, did you, in the several days following June 19, have an occasion to interview Mr. Liddy?

Mr. MARDIAN. Yes.

Mr. HAMILTON. And who else was present in this interview?

Mr. MARDIAN. Mr. Fred LaRue.

Mr. HAMILTON. Mr. LaRue testified at page 4595 that this meeting was on June 20. Do you concur in that testimony?

Mr. MARDIAN. No. And I might state that there is doubt in my mind as to the date of that meeting. I originally, in response to questions put to me by the U.S. attorneys fixed the date of that meeting as the 21st or 22d. They told me that the meeting took place on the 20th. We finally settled on the 20th or 21st, and I believe I told your committee that it was the 20th or 21st. In checking my records I would have to say that the meeting took place on the morning of—and again I could be mistaken, the morning of June 21.

Mr. HAMILTON. What is there in your records, Mr. Mardian, that indicates to you that the meeting took place on this day?

Mr. MARDIAN. On the worksheet that has been turned over to your committee, I note that I got a call from Gordon Liddy and it coincides with my earliest recollection that I did not meet with Mr. Liddy at least on the first day of my return. I am not saying that that is absolute, I am just—my earliest recollection was the 21st or 22d, and I think I have testified that it could be the 20th or 21st but I would have to say that it was the 21st.

Mr. HAMILTON. Is it your recollection that this meeting with Mr. Liddy took place on the morning of the 21st?

Mr. MARDIAN. This is purely a surmise based upon that call. It looks to be the first call that I noted, and my recollection is he said he was leaving that day for Los Angeles.

Mr. HAMILTON. I notice in your diary that there are numerous meetings scheduled on June 21st, one at 8; one at 8:30; one at 9:30; one at 10; one at 11; and one at 12, that appears to have been canceled. Would this heavy load on the morning of the 21st suggest to you that perhaps the meeting took place on the 20th?

Mr. MARDIAN. That crossmark does not indicate a cancellation. I think you will find that crossmark on every Monday, Wednesday, and Friday, which was the time I was supposed to exercise, which I did not.

I note that the meeting—there is one, for instance, with a gentleman at 8:30 and then another one at 10 o'clock. I do not think I met with that gentleman twice on that day. One appears to be a rescheduled



ing, and the fact that I have it noted in my book does not mean that I kept the appointment.

I am trying to give you the best, my best recollection.

Mr. HAMILTON. How did this meeting come about, Mr. Mardian?

Mr. MARDIAN. Well, my recollection differs with that of Mr. LaRue. Again, Mr. LaRue could be right. My recollection was that Mr. LaRue told me Mr. Liddy wanted to talk to me. I do not recall whether it was Mr. LaRue that told me this or Mr. Liddy to come to my office. Mr. Liddy was reluctant to come to my office. He wanted to meet some place else, and we met in Mr. LaRue's apartment. I believe that, more than anything else, was the basis for my belief that it was Mr. LaRue that arranged for the meeting and indicated we could meet in his apartment.

Mr. HAMILTON. Mr. Mardian, I wondered in your own words if you would, in some detail, tell us what occurred at this meeting and tell us what information Mr. Liddy imparted to you?

Mr. MARDIAN. My recollection is pretty vivid. I may forget some of the items that he disclosed to me, but I will try not to.

We arrived, Mr. LaRue and I arrived at his apartment and soon thereafter, Mr. Liddy came into the room. The first thing he asked Mr. LaRue was whether or not he had a radio. Mr. LaRue indicated a radio which was in the corner of the living room. Mr. Liddy went over and turned the radio on and asked me to sit by the radio in a chair, and he sat in a couch, as I recall, that was next to an end table that the radio was on.

He apologized to me by saying something to the effect that it is not that I do not trust you, but this conversation cannot be recorded. My inference from that was he thought I had some kind of a device on me, possibly something in the room, I do not know.

And again, I am going to have to say that I do not recall the sequence of events in which he related these things to me. But I do recall that he said that he wanted to hire me as his lawyer, as his personal attorney. I told him that I was acting as attorney for the committee and that I could not relieve myself of that responsibility to represent him. He then said it was imperative that he be able to talk to me in confidence and that under no circumstances could I disclose what he told me.

I told him that since he was an employee of the committee and I was acting as attorney for the committee, he could talk to me as a client to a lawyer and that I would maintain his confidence, but that I would have to be at liberty to disclose what he told me to Mr. Mitchell. At first, I believe he demurred, and I told him that was the only basis on which I could talk to him.

One of the things that he told me was that he had a message from Mr. Hunt, that Mr. Hunt felt that it was the committee's obligation to provide bail money to get his men out of jail. At that time, these people were incarcerated in the District of Columbia Jail.

I was interested in finding out what had occurred and I interrogated him as to the events of the evening of January 16—June 16, the morning of the 17th. And he related to me what had occurred about the break-in, told me that they had planned, as I recall, to break into the McGovern headquarters that same night.

About the arrest of the five people, Mr. McCord and the others, their flight, he indicated to me that there was nothing to fear, because the only person that could identify Mr. Liddy was Mr. McCord and Mr. McCord would not divulge his identity, that the Cuban-Americans were old soldiers who had worked in the CIA with Mr. Hunt since the Bay of Pigs, and that they would never under any circumstances disclose Mr. Hunt's identity, and that the committee had nothing to fear in that regard.

I told him that, based upon what he had related to me, the events of that evening, one of which included, as I recall, his sitting on the shoulders of one of the men at a distance—I don't recall, some 300 feet or 300 yards—shooting out a light behind the Democratic Committee headquarters. I pointed out to him that a person that he was that intimate with would certainly be able to identify him, pointed out that he had spent, that he had told us he had spent some time in the room with these people in their hotel room, they had eaten, that his fingerprints would be all over the place. He kept insisting that there was no chance that he would be identified.

I tried to convince him he would be identified, that his best bet was to give himself up rather than try to wait for them to arrest him.

He discounted this possibility. He did, after some discussion, indicate that it was possible that he could be arrested, but I inquired of him as to the—because of the news accounts of the arrest and the apparent bungled effort, the possibility that someone in the group had had it in mind that they would be arrested, to embarrass the Committee To Re-Elect the President. He discounted this completely by saying that this group had been operating together for some considerable period of time, that they were all real pros, that they had engaged in numerous jobs. And when I asked him what kind of jobs, he said, we pulled two right under your nose.

I inquired as to what he meant by that, and he said that they had invaded the office of the psychiatrist of Dr. Ellsberg and that they were the ones who got Dita Beard out of town.

I expressed my strong displeasure with respect to—I pointed out that the worst thing that had happened in the hearings was that Dita Beard disappeared.

I asked him because of the Ellsberg break-in what, if anything, they had obtained? He told me that they had obtained nothing, that they had searched all the files and couldn't find his record.

I asked him on whose authority he was operating, and I wish to be very careful here, because I don't know that he used the name of the President, but the words he did use were clearly meant too imply that he was acting on the express authority of the President of the United States, with the assistance of the Central Intelligence Agency.

I made some notes of—oh, I asked him what information they had obtained. He told me that the purpose of making this entry, that this entry was not of his doing, that neither he nor Mr. Hunt thought it was a good idea, that they had obtained nothing from the bug that they had previously implanted in the place. He told me that the only thing they had ascertained from that bug was the fact that somebody at the Democratic National Committee was talking to somebody at the—was talking to the people or a person at the Committee To Re-

Elect the President, that although he and Mr. Hunt were against the entry, that Mr. Magruder——

Senator BAKER [presiding]. Would you suspend for just a minute, Mr. Witness?

Anybody who wants to leave the room should do so now so we don't have disruption of the witness' testimony. And would the officer close the door, please, for quiet in the witness room.

Would you please proceed?

Mr. MARDIAN. I think I was explaining that neither he nor Mr. Hunt felt that any additional entries would be fruitful, but that he had, they had made the entry at the insistence of Mr. Magruder.

I recall again inquiring as to why the stupid adventure. It seems to me to be the most ridiculous thing I had ever heard of. As a politician, or as a person that had had political experience, I couldn't understand what they would hope to get out of the Democratic national headquarters before they even had a candidate, much less afterward. Party headquarters, at least Republican Party headquarters, are very sterile during this period of time.

He could not answer the question for me other than to say that he was carrying out his orders.

Mr. HAMILTON. Mr. Mardian, did Mr. Liddy mention what type of budget he was operating under?

Mr. MARDIAN. I was asked a question about the budget this morning, and I responded both to you and to the chairman, and I stated——

Senator ERVIN. Excuse me, I have to interrupt this. It appears that a hoax has been perpetrated upon the committee, at least upon the chairman of the committee.

I was called to the telephone just before the lunch period and I was told before I went to the telephone that Secretary of the Treasury Shultz was calling and wanted to speak to me. I went to the telephone and a voice at the other end of the line informed me that it was Secretary of the Treasury Shultz. I am not familiar enough with the voice of the Secretary to be able to identify it and so I just assumed that the person at the other end of the line was Secretary Shultz, and he made the statement which I reported to the committee and the news media on this microphone.

In the meantime, there has been communications between White House counsel, Mr. Garment, and the staff, and Mr. Garment professed ignorance of any matters of that kind and, as I understand, an investigation was made, and Secretary Shultz was contacted and Secretary Shultz stated that he had no such conversation. So I had his office called and asked that he be placed on the phone, and so I was informed a few minutes ago—the reason I put it this way is because I hate to have my faith shattered in humanity—but I was called to the phone and I was informed that Secretary Shultz was indeed on the phone. I went to the phone and had a conversation with the man who really assured me he was the real Secretary Shultz [laughter] and he informed me that he had had no conversation with me today; that whoever did it was somebody else; that the only conversation he had with me recently by telephone was when he called me yesterday to tell me something about the White House and the witnesses from the Secret Service.

So it is just an awful thing for a very trusting soul like me to find that there are human beings, if you can call them such, who would perpetrate a hoax like this.

Additional information which I received from counsel, and which counsel assures me that they have received by telephone, and not in person, and which they believe was received from White House counsel is to the effect that the President has the request of the committee under advisement and will reach some decision about it early next week. So notwithstanding the fact that my trust in humanity has been grossly abused by someone I am going to—and notwithstanding the fact that some people think the telephone is an instrument of the devil anyway [laughter] I am going to assume that the information which counsel received at one end of a telephone line from somebody at the other end was indeed information conveyed to them by White House counsel and that the recent information is correct.

Senator BAKER. Mr. Chairman, it would be helpful if we could have found a secure telephone [laughter] but in any event, too, I would view with great distaste the apparent hoax that has been perpetrated on the committee. The fact that it was received here on a confidential phone number in the committee room would seem to lend credence at the first blush, and I can fully understand the transaction as it has transpired.

I would say for the record, however, that the thanks I expressed and the admiration I expressed for the accommodation of both parties still stands as an advance payment on what I hope will still happen.

Senator ERVIN. I would add that the commendation I visited upon the committee members would still stand and I would like to expand it to include both the majority and the minority staff members. And I trust that nobody in the future will attempt to deceive and mislead a trusting and unsuspicious individual like the chairman of this committee in any such fashion [laughter]. In other words, the counsel suggests that we have had some talk about dirty tricks. I think it is a unanimous opinion of this committee that this was a right dirty trick. [Laughter.]

Mr. HAMILTON. Mr. Mardian, I believe a minute ago we were talking about what Mr. Liddy told you about the budget that he was operating under.

Mr. MARDIAN. I think I responded to that earlier this morning. I mentioned the budget matter in a conversation with Mr. Mitchell present in California. It is possible that that subject came up after my discussion with Mr. Liddy because Mr. Liddy told me and it may have been for the first time, that he was operating under a budget approved by Mr. Mitchell and the White House during that June 21 meeting, if it is the 21st.

Mr. HAMILTON. Just to make the record clear, Mr. Mardian, did Mr. Liddy also say to you that the operations that he had been involved in such as the Ellsberg burglary and the Dita Beard incident had the approval of the President and the CIA. Is that a correct paraphrase, and if not, please correct me.

Mr. MARDIAN. As I told you before, the staff, I don't recall, I can't say that he said the President of the United States, but the words he used or the word he used were meant to imply that, and that is the impression he left with me.

Mr. HAMILTON. That they had been approved by the President, that was your impression?

Mr. MARDIAN. Yes, sir.

Mr. HAMILTON. Now, did Mr. Liddy mention to you that he had shredded any documents?

Mr. MARDIAN. Yes, in trying to demonstrate to me that there was no way of tracing him he told me he had shredded every bit of evidence that would have linked him to this operation as well as all of the other operations. He told me he had even gone home—he has a habit, he told me, or a hobby, I should say, of collecting soap from the various hotels. [Laughter.]

He had taken the soap wrappers off and shredded all the soap wrappers.

He also told me that during this process he had shredded all of the \$100 bills that he had in his possession that were new and serialized.

Mr. HAMILTON. Before I move on, have we exhausted the contents of this meeting to the best of your recollection?

Mr. MARDIAN. Yes, Mr. LaRue reminded me of another, he told us quite a bit that morning, and it may seem comical now. It certainly didn't seem comical to us at the time. He did make the statement that the committee could be assured that he would never talk and if they doubted that, as Mr. LaRue testified, if we would just tell him what corner to stand on he was ready to be assassinated.

Mr. HAMILTON. What did you do with this information, Mr. Mardian?

Mr. MARDIAN. I went immediately—as soon as I could get access to Mr. Mitchell I disclosed to him—I may not have disclosed all of this to him but—

Mr. HAMILTON. And you think it was the same day that you reported to Mr. Mitchell?

Mr. MARDIAN. Yes, my counsel advises me that despite my notes I neglected to tell you a very important part of another aspect of what he told me.

In explaining to me that they were a purely professional outfit, he told me that Mr. Hunt was the planner of the Bay of Pigs, the chief planner, as I recall, that he was extremely popular, I think he said, like a God in the Cuban community of Miami, that this was an explanation of why these Cuban-Americans would follow him to death, and that no one would disclose anything as far as they were concerned, they were absolutely loyal, worked with him for a number of years, had been working with them in these operations, that—and I don't wish to bring anybody else into it by implication, but he said that the—one of his friends in the Cuban community and one of the leaders was a particular person, I am not sure, and if I use the identification I may be identifying the wrong person, because at staff meetings I heard some of the staff members start mentioning some names and I am not even sure that the person was of the character that I described but he was extremely wealthy, and I told Mr. Liddy that I did not think Mr. Mitchell would approve the use of committee funds to bail out the defendants and he should so advise Mr. Hunt, and that it seemed to me that if Mr. Hunt had such good connections in the Miami community that they should look to that community for the bail money.

Mr. HAMILTON. When you spoke to Mr. Mitchell did you transmit this request for bail money to Mr. Mitchell?

Mr. MARDIAN. Included among all of the other matters that I related.

Mr. HAMILTON. More specifically, in regard to the bail money, what was Mr. Mitchell's reaction?

Mr. MARDIAN. Mr. Mitchell told me that under no circumstances would bail money be forthcoming, and for me to call Mr. Liddy and tell him. And I did so.

Mr. HAMILTON. Will you tell us the rest of your conversation with Mr. Mitchell? I don't want you to repeat everything that you told Mr. Liddy, but I would like to know what Mr. Mitchell said to you.

Mr. MARDIAN. I can't recall—oh, he asked me if Mr. Liddy—I might say that Mr. Mitchell appeared to be as sincerely shocked as I was when I got this information. He asked me if Mr. Liddy had disclosed any other of the activities of this group that had been arrested, Mr. Hunt and himself, and I told him that he had not, he had not disclosed any others to me.

Mr. HAMILTON. Did Mr. Mitchell confirm or deny that he had approved the budget for Mr. Liddy's operation?

Mr. MARDIAN. I don't think he did.

Mr. HAMILTON. He made no comment in any way as to whether or not he had approved the budget?

Mr. MARDIAN. Not at that time. That discussion took place later.

Mr. HAMILTON. A discussion on whether he had approved the budget took place later?

Mr. MARDIAN. Well, the discussion didn't start out in that vein. It took place when I confronted Mr. Magruder. I asked Mr. Magruder in the presence of Mr. Mitchell, I believe the next day, or as soon thereafter as I could, how much money he had given Mr. Liddy in addition, I forget the general nature of the entire conversation, I asked him whether he directed Mr. Liddy to go in there. He denied it. I asked him how much money he had given Mr. Liddy. He said he had authorized Mr. Sloan to give Mr. Liddy \$40,000. I asked him what he thought the \$40,000 was for. It seemed to me a sizable sum of money. Mr. Mitchell expressed the same concern and wanted to know, you know, how he could have spent \$40,000 already because the campaign had just started.

Mr. Magruder lied to Mr. Mitchell that he had authorized \$250,000, and this seemed but a very small part of that sum. That is how the \$250,000 budget matter came up.

Mr. HAMILTON. At some occasion during that week wasn't there a discussion between Mr. Magruder and Mr. Sloan as to the actual amount that had been approved?

Mr. MARDIAN. I was not—I don't recall being present at that discussion other than the—it has been testified that I confronted the two of them in Mr. Mitchell's presence, that may very well have occurred. I don't have a present recollection. But after talking with Mr. Magruder I then interrogated Mr. Sloan. Mr. Sloan told me that he had been authorized by Mr. Magruder to disburse in the neighborhood of \$200,000 which shocked me even further. I asked him if he was sure of the amount. He said he had not calculated the exact amount but that it was his opinion that it was in the neighborhood of \$200,000 that he had already disbursed.

Mr. HAMILTON. Now, did Mr. Magruder immediately agree with Mr. Sloan that this was the amount?

Mr. MARDIAN. No; I then went to Mr. Magruder and I asked him if he was sure that he had only authorized the disbursement of \$40,000. He said, well, are you talking about total disbursements or disbursements to Mr. Liddy, and said that I had only asked him about how much money he had authorized for Liddy. He said the figure was \$75,000, because he authorized \$35,000 to Mr. Porter.

Subsequent to that, and again, I do not know the sequence of events. I can only guess as to the days it must have been in the period June 23-24. Mr. Sloan came to me quite upset and said that I had, he had talked to me in confidence and that I had disclosed to Mr. Magruder what he told me about the \$200,000. He said in effect, I thought you were the only one I could trust and I cannot even trust you.

And I told him, well, with the discrepancy we had, I had to somehow find out where the truth lay.

I talked, as I recall, to Mr. Sloan on that day, and I believe this was the Saturday before he left. Now, I may have had a discussion with him privately, as he has testified, in my office and another one in the presence of Mr. Mitchell, as others have testified, in Mr. Mitchell's office, where a confrontation took place. But I had a rather lengthy discussion with Mr. Sloan on that occasion with respect to his possible liability for violation of the election campaign law. And my recollection of that conversation is a little different than Mr. Sloan's.

Mr. HAMILTON. Did Mr. Sloan feel like he was being pressured into telling a false story by Mr. Magruder or anyone else?

Mr. MARDIAN. I am not sure—yes, he did, but I am not sure whether it was on that occasion or when he came back from his trip. I just am not sure when we had that discussion.

Mr. HAMILTON. But he did at some time communicate to you his fear that he was being pressured?

Mr. MARDIAN. Yes.

Mr. HAMILTON. And did you subsequently confirm that the budget that had been allocated to Mr. Liddy was actually \$250,000?

Mr. MARDIAN. To this day, that matter has never been confirmed to me. I was never apprised of the fact that there had been any agreement on the amount of disbursement. I think Mr. Sloan's testimony that it was \$199,000—if you want my opinion, that is a figure I accepted. But he did not give me that figure on that day or—he gave me that figure, I believe, after his return from his trip.

Mr. HAMILTON. He told you that he had disbursed \$199,000?

Mr. MARDIAN. I believe after he returned from his trip, he told me that he had reconciled his books and it was \$199,000.

Mr. HAMILTON. And Mr. Magruder never admitted to you that that was the correct amount?

Mr. MARDIAN. No.

Mr. HAMILTON. Now, Mr. Mardian, while we are talking about money, let me ask you if you are aware that around \$80,000 was passed in late June of 1972, from Mr. Stans and Mr. Sloan to Mr. LaRue?

Mr. MARDIAN. I was not aware of that.

Mr. HAMILTON. You were not aware of that transfer?

Mr. MARDIAN. No, sir.

Mr. HAMILTON. You played no part in the transfer of that money?

Mr. MARDIAN. Based upon the testimony that I have heard here, I apparently did.

Mr. HAMILTON. Well, let me read Mr. Stans' testimony to you and ask you for your comment. After speaking about the fact of the transfer, Mr. Stans had this to say:

At that time, it was understood within the committee that Robert Mardian had been brought to Washington to work on legal matters that were current at the time and I went to him for advice. His advice, after he found a description of the money, was to get the money out of the office and out of the campaign, and he suggested that I give it to Fred LaRue.

Now, does that refresh your recollection?

Mr. MARDIAN. I recall the testimony.

Mr. HAMILTON. Do you agree or disagree with the testimony?

Mr. MARDIAN. I disagree with the testimony.

Mr. HAMILTON. Can you suggest why Mr. Stans would so testify?

Mr. MARDIAN. Yes. I started to say I had this long discussion with Mr. Sloan about his possible involvement in violation of campaign contributions and Mr. Sloan considered me, I believe, a friend. He came to me for that advice. And amongst the things we discussed with respect to his possible liability was the fact that he had failed to report cash on hand in the prior reporting period and that he had disbursed funds without reporting it. I might say that when he came to see me on that occasion, he was almost paralyzed with fear. He professed to not have intended to do anything wrong.

I told him that he should reconstruct all of the disbursements that he had made, and that if he did this and reported those disbursements, and deposited the funds on hand before the next reporting date and make that report, that all he would be guilty of, in my opinion, was a technical violation of the law, because a full disclosure would have been made, but simply one reporting date later, if he had no knowledge of the uses for which the money was used.

I gathered that he agreed with me that that money should be put in the bank and reported. He had a sense of relief as a result of that conversation. It was the same conversation where we were discussing the discrepancy in the funds.

I told him that I wanted to get together with him on the following Monday—I believe this was late Saturday afternoon. It was at that time that he told me that he and his wife had planned for some time a 10-day trip to either Bermuda or the Bahamas, or some place similar, that his wife was, I believe, pretty well along in her pregnancy, that she was very overwrought over the Watergate affair. He was concerned for her health, and hoped that he would not have to stay. It was I that told Mr. Sloan that if he did go, it would look very bad, especially in view of the fact that we were having GAO inquiries, that there was this large discrepancy, that he was the only one that could solve it.

He reiterated that his wife's health was in the balance. I told him I would talk to Mr. Mitchell and let him know.

I talked to Mr. Mitchell. Mr. Mitchell thought it would be very bad if he left the next day, for me to try to talk him out of it, but that if he felt he had to go for his wife's health, to let him go.



I called Mr. Sloan that Saturday evening and I said, "Take your wife on her vacation, but be sure your number is with your secretary and that you can return on 24 hours' notice," and he thanked me.

Now, subsequently, when he returned, and I presume it was shortly after his return from his trip—as I recall, he had resigned prior to this time, but he hadn't in fact left. He had handed in his resignation, but he was still working with Mr. Stans. And I don't—I cannot fix the date. It could have been early July. He came to my office and as I recall, there was somebody else in there, and I don't recall who it was. He came in unannounced. He said he had cleared out his safe or was clearing out, that he had funds, cash funds, for Mr. Stans, that Mr. Stans was not there; that Mr. Stans told him to leave it with Mr. LaRue, that Mr. LaRue was not there; that he had called Mr. LaRue and Mr. LaRue said to leave it with Mr. Mardian. I told him that I did not want to be responsible for cash, I did not have a safe, the only thing I had was my desk drawer, and that if he felt that that was a safe place, it was OK with me if I had no responsibility. He said Mr. LaRue would be by to pick it up soon.

I left my office—I had to go someplace. I was not there and Mr. LaRue called me from my office soon thereafter and asked if Mr. Sloan had left some money for him. I told him it was in my second left-hand—right-hand drawer. He apparently was at my desk, he said, I have got it, thanks.

Now, that is all I know about that transaction.

Mr. HAMILTON. And it's your testimony that this money was not transferred upon your legal advice?

Mr. MARDIAN. No, sir. The funds were not to go to Mr. LaRue but to Mr. Stans, and I think Mr. LaRue so testified this morning.

I subsequently had a conversation about this matter with Mr. Stans and there is a definite disagreement. Mr. Stans asked me if I recalled giving him this advice. I told him I did not recall giving him this advice, this would be entirely contrary to what I did tell Mr. Sloan for sure and what I thought I told him, that the money should be deposited in the bank and reported on the next reporting date.

Mr. Stans' reply to me was, "Somebody gave me that advice." And I said, "Well, Maury, it was not me."

He said, "Well, Duke and I have discussed it." He said, "Unless you can come up with something better, Duke and I have agreed that that is the way it is going to come out."

And that is my only recollection and as counsel says, the date of that call—called me on May 1 of this year, a couple of days before I was to testify before the U.S. attorney's office.

Mr. HAMILTON. Mr. Mardian, I see that you are reading from a piece of paper. Is that a note that you made at the time of that phone call?

Mr. MARDIAN. Yes.

Mr. HAMILTON. I wonder if we might, Mr. Chairman, put a copy of that in the record?

Mr. MARDIAN. The date on this is wrong. It says May 1 of 1972. It should be May 1 of 1973.

Mr. HAMILTON. I was going to ask you about that, Mr. Mardian. Are you sure that is a transcription of a call that came in on May 1 of this year?

Mr. MARDIAN. It is not a transcription of a call, and I don't want to—you can read this two ways. You can read it—well, I don't want to put any bad connotation on it as far as Mr. Stans is concerned because Mr. Stans, as long as I have known him, is an honorable man. I took this the way I took it and I wrote it down as it came over.

Senator ERVIN. Well, if counsel will pardon me for interjecting myself at this point, I have practiced law a long, long time and I have found out that the recollections of honest men as to a conversation often disagree, because none of us have perfect memories—or at least very few people do, if any.

Mr. BRESS. Mr. Chairman, may I say a word?

Senator ERVIN. Yes.

Mr. BRESS. I furnished a copy of this handwritten memorandum made by Mr. Mardian at the time of the conclusion of that telephone conversation with Mr. Stans on May 1, 1973, and I furnished a photostatic copy of this to the staff of the committee yesterday. But we note now that the date written on it is May 1, 1972. We would like that changed on the basis of the witness' testimony to 1973.

Senator ERVIN. That will be all right and we will admit the copy rather than the original in evidence and let Mr. Mardian retain the original.

[The document referred to was marked exhibit No. 89.\*]

Mr. HAMILTON. Mr. Mardian, I would like to move on as quickly as we can. Besides those conversations you have already mentioned—

Mr. MARDIAN. Pardon me, may I say something? It wasn't \$80,000 that Mr. Sloan left with me. I didn't count it, didn't look at it, but it wasn't any \$80,000.

Mr. HAMILTON. I might ask you how you know it wasn't \$80,000 if you didn't count it?

Mr. MARDIAN. He told me. He told me what sum it was when I asked him, Mr. Sloan, and the figure that sticks—I don't have any present recollection, but somebody asked me originally on your staff if it was \$40,000 and I didn't think it was that high. But had it been an \$80,000 figure, I certainly would have remembered it being something in excess of \$40,000.

Mr. HAMILTON. Well, let me turn to another subject, Mr. Mardian. Besides those conversations you have already mentioned regarding bail money, did you ever have any discussions with anyone concerning payment of moneys to the defendants in the Watergate case?

Mr. MARDIAN. As to the payment of moneys?

Mr. HAMILTON. To the payment of money.

Mr. MARDIAN. There were three instances where I recall discussions concerning payment of money. The first was the one I have related. It was the conversation with Mr. Liddy. The second, on the second occasion. I was told by Mr. O'Brien, who was one of the counsel that I had hired, that Mrs. Hunt had come to him to talk to him. And I don't recall that there was much of a conversation. She apparently had come thinking she was going to get money from him. And as I recall what Mr. O'Brien told me, and he would be the best one to discuss it, when she asked Mr. O'Brien who he worked with or for, he said, Mr. Mar-

\*See p. 2642.

dian. And she said, apparently, as I recall, she had to terminate the conversation. She said she couldn't talk to them. He asked why, and she said, my husband says he is a straight arrow and not to have anything to do with him.

The third instance was an occasion in my office—and my office was used by the attorneys because it did have an office and an anteroom. That is generally where they were. I was getting increasingly involved back into the campaign. Mr. Bittman and an associate from his office came there while Mr. Parkinson and Mr. O'Brien were there, and after exchanging pleasantries with Mr. Bittman—I had not met him before—I had to leave. But before I left, Mr. Bittman said something about his client was very upset about his attorney fees or something to that effect.

Later, we were having a meeting in the conference room with all of the attorneys from the two offices, and I happened to arrive at the same time that Mr. Parkinson arrived.

I said, I asked him, what was all that about? And he said, oh, nothing—he was saying it facetiously—Bittman wants \$25,000 attorney fees. He thinks, his client thinks, that the committee ought to pay it.

I told him I thought it was blackmail. And Mr. Parkinson, I think, concurred.

We could not talk any further about it. I thought that was the end of the discussion, and we went into the meeting with the firm of attorneys.

Mr. HAMILTON. Mr. Mardian, are these the only three discussions that you recall regarding money?

Mr. MARDIAN. The only three and I never heard of any money or money demands other than those three occasions.

Mr. HAMILTON. Mr. Mardian, I would like to read you a portion of Mr. Dean's testimony and ask you to comment on this, please. Mr. Dean was responding to a statement found in what is now known as the Buzhardt memo which reads like this:

It was Dean who suggested to General Walters on January 6th that CIA pay the Watergate defendants while in jail.

and Mr. Dean in commenting on this particular passage said this:

I believe I have explained that, Senator, in that I reported also at one point in time to Mr. Mitchell and Mr. Mardian about the Gray theory. That theory prompted Mr. Mardian, as I recall, to suggest that the CIA might be of some assistance in providing us support, and he also raised the question that the CIA might have a very proper reason to do so because of the fact that these were former CIA operatives.

Mr. Mardian, do you remember a conversation of this sort?

Mr. MARDIAN. I do not recall that conversation. I do recall a discussion and there may have been discussions concerning CIA involvement, and I can tell you that whatever point in time that was that it was my opinion that the CIA was involved for a number of reasons, and I do not recall any money demand as such, but the only ones I recall are bail, bail the defendants out, and I may have said, "CIA ought to take care of its own people," or it is "a CIA problem and not a committee problem." That is, would be, my best recollection.

Mr. HAMILTON. Did you become aware in the summer of 1972 that Mr. Herb Kalmbach was going to be asked to raise money for the Watergate defendants?

Mr. MARDIAN. No.

Mr. HAMILTON. Did you learn some time before the election that the moneys raised by Mr. Kalmbach were insufficient and that there was pressure from the defendants for additional funds?

Mr. MARDIAN. I never heard that Mr. Kalmbach was involved in that type of activity and I know Mr. Kalmbach and I am as surprised, the most surprised person in the world that Mr. Kalmbach would be asked to do it and would get involved in it.

Mr. HAMILTON. Mr. Mardian, if you will bear with me for half a minute, I would like to read you two passages from Mr. Dean's testimony. The first is found at page 2211:

Of my meeting with General Walters and subsequent meeting with Haldeman and Ehrlichman, I informed Mr. Mitchell that there could be no CIA assistance. To the best of my recollection, this occurred on the afternoon of June 28 in a meeting in Mr. Mitchell's office and I believe that Mr. LaRue and Mr. Mardian were also present. There was a discussion of the need for support money in exchange for the silence for the men in jail, and if the CIA could not do it they would have to find money somewhere else. Mr. LaRue indicated that Mr. Stans had only a small amount of cash. I believe he said \$70,000 or \$80,000, but more would be needed. After some discussion, which I cannot recall with any specificity at this time, Mr. Mitchell asked me to get the approval of Haldeman and Ehrlichman to use Mr. Herbert Kalmbach to raise the necessary money.

Now, I would like to read from page 2259 of Mr. Dean's testimony:

Having explained the status of the cash at the White House I must now return to the pressure that was being placed on the White House for the use of these funds which I have just described were payments to the seven indicted individuals. This pressure began long before election day in that Paul O'Brien was receiving messages from William Bittman, Hunt's lawyer, that Hunt and others expected to have more money and attorney fees in exchange for continued silence. The initial payments by Kalmbach had not been sufficient. O'Brien reported this frequently to Mitchell, Mardian, LaRue, and myself.

Mr. Mardian, can you explain the discrepancy between your recollection and Mr. Dean's recollection?

Mr. MARDIAN. Well, let me say this. I never recall any approach or demand or discussion with Mr. Paul O'Brien other than the one that I have related. The discussion that Mr. Dean refers to, I think he says "I believe Mr. Mardian was there." In going through the testimony of some of these witnesses, counsel and I have found instances where people say "I believe he was there," when I was not even in town. I might point out that I do not know what the date of this conversation was, but commencing on or about July 15 I started phasing out of the Watergate, so-called, other than conferences at Mr. Mitchell's request with respect to advice he wanted in connection with the civil litigation. I think everybody involved knew how distressed I was, how I wanted out of Watergate, and I believe as of July 13 I had, in effect, I know I introduced, I took Mr. Mitchell and Mr. O'Brien—I mean Mr. Parkinson and Mr. O'Brien to Mr. Mitchell's office and said they are taking over and I do not think anyone would have communicated that type of demand to me, either out of compassion or friendship or what. They knew Bob Mardian wanted out. And I did not want to be involved in Watergate or its ramifications.

Mr. HAMILTON. Is it not true that you had a number of meetings with Mr. Parkinson and O'Brien from July 13 up until October? Is that not correct?

Mr. MARDIAN. I would say, yes. I do not know, when you say numerous, whenever the occasion demanded I would meet with them. We had several lawsuits that were then pending and others that were about to be filed, some by the Democratic National Committee and some by individuals within the Committee To Re-Elect the President. I was, of course, an attorney of record in the case, and I think out of courtesy they would call me. I sat in on meetings concerning the civil litigation but I never sat in on any meeting with Mr. O'Brien or Mr. Parkinson where there was any discussion about payments.

Mr. HAMILTON. So Mr. Dean is just dead wrong in his testimony, is that what you are saying?

Mr. MARDIAN. Well, I do not think you can characterize it as dead wrong when you say he says "I believe."

Mr. HAMILTON. He also says "Mr. O'Brien reported this frequently to Mitchell, Mardian, LaRue, and myself, that is, the need for more money."

Mr. MARDIAN. I think Mr. O'Brien would be the best one to testify as to what he reported to me and not Mr. Dean.

Mr. HAMILTON. We will ask him.

Mr. Mardian, did you ever state to John Dean that you wished to read the FBI 302 reports—

Mr. MARDIAN. I am sorry, sir, my counsel was talking to me.

Mr. HAMILTON. Did you ever state to Mr. Dean that you wished to read FBI 302 reports regarding the Watergate investigation?

Mr. MARDIAN. It is the last thing I wanted to read.

Mr. HAMILTON. Did you read those reports?

Mr. MARDIAN. No.

Mr. HAMILTON. Did you ever suggest to Mr. Dean that the FBI was being too aggressive?

Mr. MARDIAN. No.

Mr. HAMILTON. And Mr. Gray should slow down his investigations?

Mr. MARDIAN. No; absolutely not.

Mr. HAMILTON. Mr. Mardian, let me read to you from Mr. Dean's testimony at pages 2199 and 2200:

It was after I showed a copy of the July 21 report to Mr. Mitchell that Mr. Mardian insisted that he be permitted to see the FBI reports. Mitchell agreed and thought that Paul O'Brien and Ken Parkinson should also see them. I recall that when Mardian, O'Brien and Parkinson finally came to my office to look at the report, they realized that they were not very meaningful. It was Mr. Mardian, however, who became very excited because of the scope of the investigation that Gray was conducting, and the tone of the cables he was sending out of headquarters. Mardian clearly thought that Gray was being too vigorous in his investigation of the case and was quite critical of Gray's handling of the entire matter. He demanded that I tell Gray to slow down but I never did so.

Again, may I ask you to explain the differing views between Mr. Dean and yourself as to your activities regarding the FBI reports?

Mr. MARDIAN. I can't explain Mr. Dean's testimony in this instance and in some others. My attitude at that time, as I tried to demonstrate in my opening statement, at the date especially that he is talking about, I was—I wanted nothing more to do with the Watergate. The last thing I would want to do would be to see an FBI report. He indicates that for some reason that I was an active participant as late as the latter part of July, and I wasn't.

Mr. HAMILTON. So Mr. Dean is dead wrong then in his statement?

Mr. MARDIAN. On that score he is dead wrong.

Mr. HAMILTON. All right.

Mr. Mardian, did there ever come a time when Mr. Magruder revealed to you his actual role in the Watergate affair?

Mr. MARDIAN. Mr. Magruder never revealed to me even the amount of money involved, much less his role in the affair, and I would say this as far as Mr. Magruder is concerned, I think Mr. Magruder recognized how I felt about the matter, and there was no discussion, open discussion, at any time in my presence and in the presence of Mr. Mitchell or anyone else about his active involvement. I think that after my talking to Mr. Liddy there was no need for him to tell me. I knew what I believe and I just don't think Jeb wanted to get me involved any more than I was.

Mr. HAMILTON. Did Mr. Magruder indicate to you that he was going to commit perjury before the grand jury?

Mr. MARDIAN. No, he did not.

Mr. HAMILTON. Did he tell you he was going to perjure himself at the trial?

Mr. MARDIAN. No, he did not.

Mr. HAMILTON. Did he tell you what facts he was going to testify to before the grand jury?

Mr. MARDIAN. I never knew what he was going to testify to even at the time he testified.

Mr. HAMILTON. Did you know what he was going to testify to at the trial?

Mr. MARDIAN. No, I didn't because—

Mr. HAMILTON. Do you know now?

Mr. MARDIAN. Do I know what he testified to now?

Mr. HAMILTON. Did you know contemporaneously, let me say that, what he was testifying to at the trial?

Mr. MARDIAN. No, I didn't.

Mr. HAMILTON. Mr. Mardian, I want to read you some more testimony and I would like to read you testimony from Mr. Mitchell, Mr. Magruder, and Mr. LaRue. First from Mr. Mitchell at pages 3578, 3579:

Senator ERVIN. You were also informed by Magruder that he, Magruder, was prepared to commit perjury when it went before the grand jury in August rather than to reveal what he knew about these matters.

Mr. MITCHELL. That was correct, sir.

Senator ERVIN. Yes. Well, did Mr. Mardian and Mr. LaRue ever talk to you about the Magruder proposal to commit perjury?

Mr. MITCHELL. They were present on an occasion or more in which Mr. Magruder stated what he was going to testify to.

Now from Mr. Magruder's testimony, reading from pages 2063 and 2064, again Senator Ervin is questioning:

Then for fear that the trail might be pursued by the prosecuting attorney and the Committee To Re-Elect the President they devised a coverup story to the effect all of this money had been given to Liddy for him to engage in legitimate intelligence operations.

Mr. MAGRUDER. Yes, sir, that is correct.

Senator ERVIN. That matter was discussed by you with Mitchell, Dean, LaRue, Strachan, Mardian, and all of those, was it not?

Mr. MAGRUDER. Yes, sir.

Senator ERVIN. And they all acquiesced in it and encouraged it?

Mr. MAGRUDER. Yes, sir.

And finally from the testimony yesterday of Mr. LaRue at page—  
Mr. MARDIAN. Pardon me, could I take these one at a time?

What you are reading sounds like an indictment and if I could answer, I can't answer all three of them at the same time.

Mr. HAMILTON. I am quite happy for you to answer them one at a time.

Mr. MARDIAN. It sounds to me like you are just reading all these statements people are making.

Mr. HAMILTON. I am reading statements that have been made to get your comment on them because they seem to indicate that you knew what Mr. Magruder was going to testify to.

Mr. BRESS. Mr. Hamilton, do you propose to ask him to comment at one time on all three statements?

Mr. HAMILTON. That was my plan, I am happy for him to comment on each particular one.

Mr. MARDIAN. Let's proceed and I will answer as generally as I can.

Mr. BRESS. I think it would be more appropriate to let him comment on each one, he may overlook something if you bunch them all together.

Mr. HAMILTON. I would be happy to do that. Would you like to comment on Mr. Mitchell's statement? Would you like to have it reread?

Mr. MARDIAN. Yes.

Mr. HAMILTON [reading]:

Senator ERVIN. You also were informed by Magruder that he, Magruder, was prepared to commit perjury when it went before the grand jury in August rather than to reveal what he knew about these matters.

Mr. MITCHELL. That was correct, sir.

Senator ERVIN. Yes.

Senator ERVIN. I want to interrupt the examination just a minute so Senator Baker can make a statement on behalf of the committee.

Senator BAKER. Thank you, Mr. Chairman, I apologize to counsel and witness for interrupting again but I continue to be surprised almost daily at new developments. What I am about to say is not a new development but a further comment on the previous development, the so-called hoax, the telephone call.

Following that telephone call the committee made a formal request of the Federal Bureau of Investigation for an investigation of that event. We have been informed that a similar request was made just prior to our request by the President, and by the Attorney General. The investigation is now on-going, and will be pursued to whatever lengths it can be followed.

Thank you, Mr. Chairman.

Senator ERVIN. Thank you.

I would suggest to counsel, and I understand counsel is perfectly willing to accede to Mr. Mardian's request, that Mr. Mardian be permitted to comment on each of these questions, these matters one at a time. I think that he is entitled to do so.

Mr. MARDIAN. Thank you.

Mr. HAMILTON. I will continue reading from Mr. Mitchell's testimony. The next question was:

Yes. Well, did Mr. Mardian and Mr. LaRue ever talk to you about the Magruder proposal to commit perjury?

Mr. MITCHELL. They were present on an occasion or more in which Mr. Magruder stated what he was going to testify to.

Mr. MARDIAN. Well, as I understand the statement Mr. Mitchell is simply saying that I was present when he stated what he was going to testify to.

Now, I was present at numerous meetings where Mr. Magruder was discussing the money amount. Now, to suggest that I knew he would be perjuring himself if he testified to amounts that he was telling us about, the answer would be, yes, because I felt that what Mr. Sloan was telling me was the truth. But I don't think that what Mr. Mitchell is saying there is that he told me he was going to perjure himself.

Mr. HAMILTON. I believe that you testified earlier that you didn't know what Mr. Magruder was going to say to the grand jury and if I read this quote by Mr. Mitchell correctly he says that you were present on an occasion or more in which Mr. Magruder stated what he was going to testify to.

Now, is Mr. Mitchell wrong?

Mr. MARDIAN. Well, Mr. Mitchell may be referring to the numerous discussions with respect to how much money Mr. Magruder said he gave or authorized Mr. Sloan to give Mr. Liddy and others. And I heard a number of those stories. The figure finally got up to \$95,000.

Mr. HAMILTON. Well, perhaps my question isn't totally clear. Were you present on an occasion when Mr. Magruder stated "I am going to go down to the grand jury and testify to the following facts."

Mr. MARDIAN. No.

Mr. HAMILTON. All right. Let me read, then, from—

Mr. MARDIAN. Counsel reminds me that you were asking that question, or I will inquire: Was that with respect to his testimony at the trial or before the grand jury? The one before the last question?

Mr. HAMILTON. This is in respect to the grand jury testimony.

Mr. MARDIAN. No; the next to the last question or the question relating to Mr. Mitchell's testimony.

Mr. HAMILTON. The question that I just asked was relating to testimony before the grand jury.

Mr. MARDIAN. The prior, with respect to what Mr. Mitchell's testimony was.

Mr. HAMILTON. That related to the grand jury.

Mr. MARDIAN. I might say I do not think I talked to a single witness who was about to testify who came to me that I did not advise that they would have to tell the truth. Now, if people made statements in front of me contrary to the truth, I think they would be honest enough if asked to state that that is the only advice any of them ever got from me.

Mr. HAMILTON. Well, in that regard let me read you Mr. Magruder's testimony. The question was:

They, for fear the trial might be pursued by the prosecuting attorney in the Committee To Re-Elect the President, they devised a coverup story to the effect all of this money had been given to Liddy for him to engage in legitimate intelligence operations.

Mr. MAGRUDER. Yes, sir; that is correct.

Senator ERVIN. That matter was discussed by you with Mitchell, Dean, LaRue, Strachan, Mardian, and all of those, was it not?

Mr. MAGRUDER. Yes, sir.

Senator ERVIN. And they all acquiesced in it and encouraged it?

Mr. MAGRUDER. Yes, sir.

Mr. MARDIAN. I recall that testimony and I recall those answers to the questions asked by the chairman. But I think if you go back and take



the testimony of Mr. Magruder, his direct testimony, where he was asked as to who was involved, he enumerated a number of people and then added "and Mr. Mardian to some extent."

Subsequently, when that question was asked, Mr. Mardian was no longer to some extent, but involved with all of them. And I think I would have liked to have asked Mr. Magruder what he meant by "to some extent."

Mr. HAMILTON. Can you suggest what Mr. Magruder meant by "to some extent"?

Mr. MARDIAN. I think he probably was aware of the fact that I after talking to Mr. Liddy, knew of his involvement and I would be less than honest if I did not say that if Mr. Magruder went up there and testified that he was not involved, he would be perjuring himself.

If you want my personal opinion, I thought he was going to go up there and take the fifth amendment.

Mr. HAMILTON. Well, did you know after he testified what he testified to?

Mr. MARDIAN. No, I did not. I knew he was not indicted, so he must not have taken the fifth and he must not have testified as to the truth.

Mr. HAMILTON. So then you had some indication that Mr. Magruder had committed perjury?

Mr. MARDIAN. Are you talking about the grand jury?

Mr. HAMILTON. Yes.

Mr. MARDIAN. Yes, I think I knew an awful lot and I suspected an awful lot. I, to this day, do not know what the answer is, but as a lawyer, I felt, and it is the only solace I have, that all persons are entitled to presumption of innocence. They have a right for a lawyer not to make that judgment but for a court to make that judgment.

I may have had very strong feelings about the guilt or innocence of a lot of people, and I have them now, but as a lawyer, I could not substitute my judgment for theirs and I did what I felt I had to do in the premises.

Mr. HAMILTON. In the interest of time, I am going to skip a portion of Mr. LaRue's testimony and move on to another area, if that is satisfactory with you. My next question is, did you ever suggest to Mr. Magruder that he erase certain entries in his diary relating to a meeting in Mr. Mitchell's office on February 4, where bugging plans were discussed, as we now know from testimony before this committee?

Mr. MARDIAN. No.

Mr. HAMILTON. In that regard, let me read you a section from Mr. Magruder's executive session before this committee. Mr. Dash was doing the questioning and this was the question:

Was it that time Mr. Mitchell and Mr. Mardian suggested you could erase the references in the diary?

Mr. MAGRUDER. That is right.

Mr. DASH. Did Mr. Mitchell—

Mr. MAGRUDER. I said you cannot erase the diary, because it would show. Somebody said the FBI could look at the diary.

Now, could I have your comment on Magruder's testimony in this regard?

Mr. MARDIAN. I just answered that I was not, that that discussion never took place in my presence.

Mr. HAMILTON. I take it that it is fair to say that after your conversation with Mr. Liddy, you had a good indication that at least Mr. Magruder had been involved in some regard in the Watergate break-in. Is that correct?

Mr. MARDIAN. Are you asking for my opinion as to what I believe?

Mr. HAMILTON. I am asking for your opinion.

Mr. MARDIAN. Yes, I had the opinion that he was deeply involved.

Mr. HAMILTON. And you were aware, were you not, in the summer of 1972, that Mr. Mitchell and Mr. MacGregor were making statements concerning the complete noninvolvement of anybody connected with the committee, making public statements, public press releases?

Mr. MARDIAN. Yes; I was aware of that.

Mr. HAMILTON. Did you make any attempt to alter or prevent these statements?

Mr. MARDIAN. The very first statement Mr. Mitchell put out, I altered. That was in California. It was presented to me. I felt it should not go out in that fashion, that Mr. Mitchell could not make those flat statements. I changed it by interlineation.

It was brought to me by Cliff Miller. He said Mr. Mitchell wanted me to approve it before it went out. I made those changes, I took it to Mr. Mitchell, he agreed with all of them. I then saw the statement as it came out and the changes had not been made.

With respect to Mr. MacGregor, I tried to see Mr. MacGregor on numerous occasions concerning statements that were going out by the committee. And I recall one instance—and I was unsuccessful in that regard until the convention. He had made some very flat statements at the convention. I insisted on seeing him on that occasion. He saw me in his suite and when I walked in, he appeared as if he were ready to walk out. He said, "I am in an awful hurry, Bob, and I do not have much time."

I said, "You had better take time for this." I said, "You are making statements concerning the possible involvement of people in the campaign that I believe to be untrue. There are people involved in the campaign that have a tremendous exposure, Clark, and you had better watch what statements you make and you had better let me brief you on it."

He got very upset. He said, "When I took the job, I was assured that nobody involved, there was nobody involved in the Watergate still in the campaign, I am relying on that, and I do not want to hear about it."

I advised Mr. Mitchell that he should terminate Mr. Magruder. If you want to know the advice I gave, I advised him that he should terminate Mr. Porter. I thought he agreed with me. He then told me that he could not do it.

Subsequently, I advised Mr. Mitchell that there ought to be a memorandum written of all the facts as we knew it, at least put in the file to protect him. He instructed me to do so. Mr. O'Brien was to prepare the memorandum. Subsequently, I was told to forget the memorandum, that he did not want one.

Now, I cannot recall all of the exculpatory things I tried to do to protect myself and some of the people involved, but there were numerous of them.

Mr. HAMILTON. Well, did you make a report to anyone else besides Mr. Mitchell and this abbreviated report to Mr. MacGregor about what you knew?

Mr. MARDIAN. No; you mean the Liddy conversation?

Mr. HAMILTON. Yes, and the other facts—specifically, Mr. Mardian, did you ever talk with the President?

Mr. MARDIAN. No, sir.

Mr. HAMILTON. Did you ever talk with Mr. Haldeman?

Mr. MARDIAN. No, sir.

Mr. HAMILTON. Mr. Ehrlichman?

Mr. MARDIAN. No, sir.

Mr. HAMILTON. Mr. Colson, about this subject?

Mr. MARDIAN. Mr. Hamilton, I was precluded, I felt, by the oath I took as a lawyer never to disclose communication made to me by Mr. Liddy. He disclosed to me when I was trying to investigate one crime the commission of other felonies. I think I would have been remiss in my profession, after giving him my promise, to disclose to others the commission of other crimes.

Mr. HAMILTON. Mr. Mardian, I wonder if you would explain that a little further. You have testified that you did not undertake an attorney-client relationship with Mr. Liddy; rather, you represented the Committee To Re-Elect the President.

Mr. MARDIAN. No; I assured him that the attorney-client relationship would pertain as to that conversation, since he was an employee of the committee and I was the attorney for the committee. The committee could only exist in its employees—people. I told him I could not act as his personal attorney.

Mr. HAMILTON. This is the same privilege that Judge Sirica has now ruled was not applicable because Liddy already had contacted certain lawyers when he talked to you, is that correct?

Mr. MARDIAN. I believe the argument before Judge Sirica was not that the attorney-client relationship did not prevail by reason of any lack of bona fides on my part. The argument made before Judge Sirica was that I had been acting in good faith. They argued that Mr. Liddy had not been acting in good faith when he approached me and that he was merely trying to use the client privilege and to use me. I think the transcript of that proceeding will show that there was never any suggestion that I was acting in bad faith, and I think on more than one occasion, he pointed out that my activities were in good faith, it was the activities of Mr. Liddy that were in question.

And I still have doubts. I have taken the advice of my counsel that Liddy was not a party to that proceeding, yet a man who, regardless of what you think of him, has been held in contempt for refusing to testify. Yet here I am, under court order, required to testify as to what he told me when he was willing to go to jail not to talk. It is an anomaly and it is not one that I feel comfortable with.

Mr. HAMILTON. You are aware as a lawyer that as a general matter, the attorney-client privilege does not cover communications relating to the continuing commission of a crime such as a conspiracy to obstruct justice, are you not?

Mr. MARDIAN. No; I don't think I presume the vacuum. That is a correct question, but I don't think that is relevant to my discussion with Mr. Liddy.

Mr. HAMILTON. Let me ask you just two more questions. First of all, were you an adherent to what we might call the Mitchell principle, that the reelection of the President was more important than almost anything else, and certainly outweighed the revealing of the true facts on the Watergate matter and the White House horrors? Would you adhere to that principle?

Mr. MARDIAN. Do you want my personal opinion?

Mr. HAMILTON. Yes, that is what I am asking.

Mr. MARDIAN. I don't know whether it is hindsight. As I say, I did not feel that I could continue because of my own feelings. I have never practiced criminal law and I don't know what criminal lawyers go through in carrying the burdens of their clients, but I could not practice criminal law. I think maybe a good criminal lawyer could have represented the committee with aplomb. I could not. I wanted out and I expressed on at least three occasions, I quit. I was induced to stay on the committee and I was told that July 11, a new role would be found for me. A new role was found for me and I was divorced from the Watergate activity from and after that date, except when people wanted to consult with me about specific aspects of the civil litigation.

I would point out that I saw Mr. Mitchell on numerous occasions, as the chart will disclose. But I would point out again, they were not all meetings. The ones that show up there as of 5:30 or 6 o'clock, that was my ride home. It was not a meeting.

Mr. Mitchell had a driver and a car and he went right past my apartment and his secretary would call at the time he was about to leave and say, "Mr. Mitchell is ready to leave." More often than not, he was not ready to leave and I would wait for him. From the chart, I see those are meetings. I was present either in his office or immediately outside his office—he didn't have an anteroom—but was near his office. But from the middle of July on, I had taken on other duties.

Mr. HAMILTON. Are you through, Mr. Mardian?

Mr. MARDIAN. Yes.

Mr. HAMILTON. I think my question was whether you considered that the reelection of the President outweighed all other considerations, what your personal opinion was?

Mr. MARDIAN. It certainly didn't outweigh all other considerations.

Mr. HAMILTON. My final question, Mr. Mardian. A number of people have testified in ways that appear to implicate you in certain aspects of the coverup. I have read Mr. Mitchell's testimony, Mr. Stans, Mr. Magruder, Mr. Dean, and Mr. LaRue. And to believe you fully we must at least partially, I believe, disbelieve these men, including Mr. Mitchell, whom I understand was once, and perhaps still is, your close friend. My question is, Why should we believe you and not believe them?

Mr. MARDIAN. The only answer I can give is that I have tried to testify as to the best of my recollection and ability and belief.

Mr. HAMILTON. I want to thank you for your attention during my lengthy questioning.

Senator BAKER [presiding]. Thank you, Mr. Hamilton.

Mr. Thompson.

Mr. THOMPSON. Mr. Mardian, we have heard testimony now from all five participants in the meeting in Mr. Mitchell's apartment on June 19. It seems to me Mr. Magruder and Mr. LaRue recall the conversation about the destruction of documents and you and Mr. Mitchell and Mr. Dean recall no such conversations. Do you recall whether or not you all arrived at approximately the same time on that occasion?

Mr. MARDIAN. No, we keep referring to meetings. I don't mean to say that Mr. Mitchell is an unstructured person, but people come and go in his office and in his apartment when he is working. My recollection is that—most of the people were there, I guess, when I got there. I know that they were all there when I left. So, I couldn't really say whether it occurred or didn't.

Mr. THOMPSON. Was this at his apartment or his office?

Mr. MARDIAN. It was in his apartment.

Mr. THOMPSON. On this occasion, did you go there directly from the airport?

Mr. MARDIAN. No, I didn't.

Mr. THOMPSON. When you arrived, do you recall who was present?

Mr. MARDIAN. I can't recall anybody coming after me. In fact, I was sure that Mr. LaRue wasn't even there. That was my best recollection, but here listening to the testimony, listening to Mr. LaRue, I have to assume he was there, and I have so testified.

Mr. THOMPSON. What was the subject matter? What was your understanding of what was going to be discussed and what in fact was discussed?

Mr. MARDIAN. I didn't know. My best recollection is, and that is why I thought there was a person from the office of public information present, that there was something that had occurred that day that required a reply from Mr. Mitchell.

The other thing that had occurred was an announcement that the Democratic National Committee had filed or was filing suit the next morning for \$1½ million, I believe. I received the next morning service of that complaint.

Mr. THOMPSON. Mr. Mardian, on June 21, as I understand it, you received a briefing from Liddy in the presence of Mr. LaRue in his apartment as to what happened?

Mr. MARDIAN. Yes, sir.

Mr. THOMPSON. You talked about this attorney-client privilege situation that you have with Mr. Liddy.

Did you also envision yourself in that same kind of relationship with the committee as a whole or other members of the committee?

Mr. MARDIAN. Yes, I was representing the committee.

Mr. THOMPSON. What period of time did that cover in your mind?

Mr. MARDIAN. Well, as I say, I am probably still attorney of record in that proceeding. I attempted and did to the maximum extent possible shift all the burden to the other two law firms as of around July 15.

Mr. THOMPSON. As a matter of fact, you requested that you not be interviewed by the FBI, I believe, for that very reason, did you not?

Mr. MARDIAN. That is not true. The FBI interviewed me and I offered to answer any questions that they would put to me regarding my conduct, my activities. I merely said that I could not answer questions which were related to communications made to me, and they asked me numerous questions about my conduct.

Mr. THOMPSON. The point I was making is that you did assert that privilege at that early date?

Mr. MARDIAN. With respect to communications made to me.

Mr. THOMPSON. And approximately when was this, if you will recall?

Mr. MARDIAN. Soon after the Watergate break-in. I don't know. They came to talk to me. I asserted the privilege as to communications, but offered to answer all other questions, and I did.

Mr. THOMPSON. We have heard testimony, as counsel preceding me pointed out, from some of the other witnesses talking about activities going on that have been characterized by various people, various witnesses, as coverup activities, comings and goings, meetings, and you have mentioned the fact that what might appear as a meeting might not in fact be a meeting.

Could you elaborate on that a little bit? How were the logs kept in Mr. Mitchell's office or his office there?

Mr. MARDIAN. You have to understand Mr. Mitchell's office. When you enter the Mudge Rose firm, you enter going south, you proceed south, then you proceed east, then you proceed north as far as you can go in the building. And Mr. Mitchell's office is the last one. So the reception room is not conductive to Mr. Mitchell's office, although he has a very nice office.

He had a secretary, a young lady who—he had two secretaries. They changed while he was there.

During this Watergate business and before that, he had a new young lady who was very competent, as competent as she could be, who tried to keep records as they were kept at the Justice Department. And many times, she would have to leave her desk and if I came out of the room, she would say, what time did you go in, or, who else was in there with you? What time did they go in?

One time I can recall calling her and she said, aren't you with Mr. Mitchell? On more than one occasion, because Mr. LaRue and I look somewhat alike to some people, because of our build and lack of hair and the glasses we wear.

And she would ask me sometimes to identify people and I wouldn't know, and she would ask somebody else.

What I am really trying to say is they weren't really meetings. If you walked down to Mr. Mitchell's office and you stood there, there was no place to sit, he would wave you in and you would sit in the chair while he finished his business with somebody.

I can remember one occasion, I must have been up there for somewhere around an hour and a half or 2 hours. I had 5 minutes with him because I had to wait through one discussion he had and when I started to talk to him, another gentleman came in, said it was urgent, and he took about 30 minutes of his time. And I still sat there. I presume, according to the record, it was a meeting of us, we three people. There were three people who came in and three different subject matters were discussed.

Mr. THOMPSON. Another thing that occurs to me is that your name is used almost interchangeably with Mr. LaRue. LaRue is seldom mentioned without mentioning Mardian, Mardian is seldom mentioned without mentioning LaRue. Can you explain this; did you travel as a pair all the time or were you engaged in the same roles at the time or what?

Mr. MARDIAN. No. Starting, I would guess in early August, I had an entirely different role, different duties. I didn't see him that much. He was a good friend, he is a good friend of mine. People would call me Fred and I stopped even—people who didn't even know us, there were people of the committee, about 400 there, people would call me Fred and quite a few would call him Bob.

Mr. THOMPSON. What was your assignment when you came back from California and became involved in what was going on around you. Was it an investigatory type assignment or was it merely to hire other attorneys, to get other attorneys on board, or a combination of the two?

Mr. MARDIAN. To do whatever was necessary to make an appropriate response to the complaint that was filed. We had a complaint, we had a motion for expedited recovery, we had—to answer that complaint—we had cross-actions on file, motions to dismiss. We filed an action for abuse of process, based upon a statement by one of the principals of the Democratic Party, that the purpose of the suit was not to recover damages but to get at the facts of Watergate. In other words, he was using—a statement was to the effect they were using, the process of the court not for a legal purpose but for a political purpose, at least that is what we urged.

There was a liable action filed on behalf of Mr. Stans because of the assertion that he was responsible for laundering committee funds in Mexico.

Mr. THOMPSON. Was it more civilly oriented than criminally, as opposed to handling a criminal case that might arise?

Mr. MARDIAN. Yes, sir.

Mr. THOMPSON. Did you ever have any previous experience yourself as a criminal lawyer?

Mr. MARDIAN. No.

Mr. THOMPSON. With regard to the situation as you found it, you were talking about Mr. Liddy and dealing with him and, of course, he was evidently telling various stories to various people. I think we know that now from the testimony. Mr. McCord says he told him that Mitchell, when he was trying to get McCord involved, did in fact get him involved, that Mitchell had approved the operation. According to Dean he told him that Magruder had pushed him and didn't mention Mitchell, and from your testimony he didn't mention Mitchell to you.

Had you ever had any previous experience with Mr. Liddy? Didn't you almost hire him yourself one time?

Mr. MARDIAN. Yes; until I interviewed him.

Mr. THOMPSON. Tell us about that.

Mr. MARDIAN. He applied for an attorney position in the Department of Justice. He came very highly recommended. His background, his résumé was splendid from the point of view of experience, and our personnel officer had done everything but put him on the payroll. I interviewed him, his résumé, his background was good. I didn't feel that he would fit into the Department of Justice.

Mr. THOMPSON. So what did you do?

Mr. MARDIAN. I—we undid the paperwork.

Mr. THOMPSON. And you unhired him?

Mr. MARDIAN. What is that?

Mr. THOMPSON. You unhired him, in effect?

Mr. MARDIAN. Yes. I think that was why Mr. Mitchell made the reference he made, he asked me why I hadn't hired Mr. Liddy and I told him.

Mr. THOMPSON. Of course, you had a conversation with him back when you were still in California concerning his conversation with Kleindienst. Didn't he tell Powell Moore that Mitchell, in effect, had issued instruction that he tell Kleindienst to get McCord out of jail, something like that?

Mr. MARDIAN. He didn't talk much on the telephone, Mr. Thompson.

Mr. THOMPSON. Didn't you, in one of your conversations with Liddy, tell him in fact that Mitchell had not instructed this? I thought you testified as to that earlier.

Mr. MARDIAN. I told him to stay away from Mr. Kleindienst.

Mr. THOMPSON. But you didn't tell him that Mitchell had not, in fact, issued those——

Mr. MARDIAN. I am sure I told him that too.

Mr. THOMPSON. Do you recall any response he had at that time?

Mr. MARDIAN. I don't recall.

Mr. THOMPSON. Did you talk to Mitchell about whether or not he had issued instructions to get McCord out of jail?

Mr. MARDIAN. Yes; immediately after Powell Moore called me and told me what had occurred.

Mr. THOMPSON. What was Mitchell's reaction? You don't have to quote his exact words if you don't want to.

Mr. MARDIAN. I think you can well imagine his reaction.

Mr. THOMPSON. You were dealing with Liddy; you testified you were also trying to get information concerning the money.

What situation did you find yourself in there? After talking to Magruder and talking to Sloan and going back and forth as to how much money had been given to Liddy, how long was it before you could resolve in your own mind what actually happened?

Mr. MARDIAN. That never was resolved.

Mr. THOMPSON. Did you ever make a statement about whether or not various parties had lied to Mr. Mitchell about——

Mr. MARDIAN. I told Hugh Sloan when he told me \$190,000 or around \$200,000 that Mr. Magruder had lied to Mr. Mitchell in my presence. He said it was only \$40,000.

Mr. THOMPSON. Did you make inquiry of other people, did you make inquiry of anyone in the White House, did you talk to Mr. Dean, for example?

Mr. MARDIAN. No.

Mr. THOMPSON. About involvement? Mention has been made, for example, of suspicions with regard to Mr. Colson. Did you ever ask him concerning what he knew about Colson's involvement, if any?

Mr. MARDIAN. What Mr. Dean told me about Mr. Colson?

Mr. THOMPSON. Yes.

Mr. MARDIAN. He told me he thought he was clean.

Mr. THOMPSON. He thought Colson was clean. When did he tell you this?

Mr. MARDIAN. Well, I don't recall. After talking to Mr. Liddy I surmised certain things, purely speculation on my part, and I started asking some questions based upon that speculation.

Mr. THOMPSON. Was this in June?



Mr. MARDIAN. I doubt that. I don't know. It would have been soon after my discussion with Mr. Liddy.

Mr. THOMPSON. Mr. Mardian, I assume the primary relevance of your claim of attorney-client privilege has to do with whether or not you should have divulged certain information to certain people earlier than you have, and I think in fairness to you I might relate something which has just been brought to my attention, the ethics opinions of the ABA, Opinion No. 216, which advises that "It is not unethical for attorneys to resolve doubts about the possibly privileged matter in favor of nondisclosure."

Was that in effect your position, when you have a problem that it is not unethical to resolve those doubts in favor of nondisclosure?

Mr. MARDIAN. I think that is the rule.

Mr. THOMPSON. I have no further questions, Mr. Chairman.

Thank you, Mr. Mardian.

Mr. MARDIAN. You are welcome.

Senator ERVIN. Did you have something to add?

Mr. MARDIAN. No, sir.

Senator ERVIN. I am glad that you decided to abide by Judge Sirica's ruling about the question of the attorney-client relationship insofar as Liddy is concerned, and that you have accepted the fact that other parties that talked to you had waived the attorney-client privilege by testifying in your own behalf because that saves us a good deal of trouble because I have a high respect for the attorney-client relationship. I think that the maintenance of the confidentiality of communications between attorney and a client is absolutely essential if persons charged with criminal offenses in our courts are to receive due process of law.

I was a trial lawyer for many years, and I have gotten a little rusty on some of my knowledge of the rules of evidence, but I was under the impression that the attorney-client relationship only applies to confidential communications between the client and the attorney, whereby the attorney receives from the client information which is necessary or appropriate to enable the attorney to protect the legal rights of the client, and that therefore the original relates to confidential communications relating to past transactions.

Is that your understanding of it?

Mr. MARDIAN. I wouldn't disagree with that statement.

Senator ERVIN. I also have the vague recollection, from my practice as a lawyer, in criminal as well as in other cases, that the attorney-client privilege only applies to confidential communications which are made to the attorney in the absence of other people, and for that reason since Mr. LaRue was a third party, that the conversation which Mr. Liddy had with you in Mr. LaRue's apartment did not fall within the scope of the privilege of attorney-client relationship.

Mr. MARDIAN. I think in this jurisdiction the rule is opposite to that, Mr. Chairman. That where the communication is in the presence of a coemployee that as far as the attorney is concerned the privilege obtains on behalf of both persons. However, either one or the other may disclose but that does not abrogate the privilege insofar as the attorney is concerned.

Senator ERVIN. I am glad it is not necessary for me to engage in a debate with you on that because I do realize that we have 50 State

jurisdictions and we have one Federal jurisdiction and there is a great deal of slight divergences among the different jurisdictions in respect to this matter and fortunately we do not have to pass on it because you are abiding by Judge Sirica's ruling and also by the fact that other witnesses have waived the attorney-client privilege.

Mr. BRESS. Mr. Chairman, that proposition of evidence law is not without some doubt. We maintain the position——

Senator ERVIN. Yes.

Mr. BRESS [continuing]. That Mr. Mardian has suggested here, and argued it before Judge Sirica. He never got to that point, so we do not have a ruling on that particular phase.

Senator ERVIN. Well, fortunately it is an academic question that we can be interested in as lawyers and the solution to which is not necessary to this present matter.

Now, you stated that you suspected that the CIA was involved in this break-in. Why would you suspect that an organization of the Government, which is expressly forbidden to exercise police powers and which is barred from any function in internal security matters would break into the Democratic headquarters?

Mr. MARDIAN. There were a number of indications of that involvement, Mr. Chairman.

Senator ERVIN. I would like for you to enumerate just a few of them.

Mr. MARDIAN. Well, the first involved the activities of that evening. I believe that all of the persons arrested, as well as Mr. Hunt, were either employees or former employees of the CIA.

Senator ERVIN. I have received a letter from the Acting Attorney General, Joseph T. Sneed, addressed to me, stating that:

The Department of Justice has initiated an investigation into the telephone hoax, in which Secretary of the Treasury Shultz was impersonated. The telephone message you received appears to have constituted a violation of Federal law.

At the direction of the President the resources of the Department of Justice are being employed to help apprehend the individual or individuals responsible for this cruel and irresponsible misrepresentation. Sincerely, Joseph T. Sneed.

I read that notwithstanding the fact that Senator Baker has made a statement to the same effect previously, because I am informed, not by telephone this time. [Laughter.] But I am informed that the Acting Attorney General is hopeful that I would read this on TV, and I am delighted to do so, and I regret very much the fact that I was so unsuspicious and trusting that I accepted the telephone call at face value.

I might add that I was prompted to do so in part because I thought that the information which the spurious phone call conveyed to me was a rational thing that should be done in this connection. [Laughter.] And it is what I had been praying that the White House would do because it is so rational.

Returning just a moment to what were the circumstances that caused you to believe that the CIA was involved?

Mr. MARDIAN. Well, there were a number of them. The first was practically, well, everybody involved in the break-in and the director, one of the directors of the break-in, were all CIA or ex-CIA people. The presence of the lawyer who appeared on the scene before there was any

chance to make any telephone calls and the agency for which he works pointed in that direction.

Mr. Hunt officed in that same agency. Mr. Liddy told me that they had been operating with CIA assistance. A person who is presently in the employ of the CIA, when I asked his opinion, indicated to me that he would stake his life on the fact that the CIA was involved, and there were some other matters that appeared which I had a knowledge of in my capacity as an assistant attorney general—

Senator ERVIN. I would say—

Mr. MARDIAN [continuing]. That indicated that goes back a long way. They had CIA identification on them.

Senator ERVIN. I believe that shortly after the Watergate break-in occurred there was some speculation in the press to the effect that the CIA may have been involved.

Mr. MARDIAN. There was quite a bit of it.

Senator ERVIN. Now, you have been interrogated, I think, rather thoroughly by Mr. Hamilton for the committee and I don't care to ask questions but I do want to say something which puzzles me.

Mr. MARDIAN. Yes, sir.

Senator ERVIN. And that is this: I have always felt that the President of the United States not only had very responsible constitutional and legal duties to perform for the country but that he also had some responsibility to afford the country moral leadership, and it appears here from all this testimony, and I think that you and I both know, that shortly after this tragedy happened, it was stated in the news media that five burglars had been caught in the Watergate, in the Democratic national headquarters, and that four of them had campaign funds which had come from the Committee To Re-Elect the President in their pockets at the time they were apprehended in the burglary.

And the thing that puzzles me, and I think puzzles many of the American people, is why didn't somebody who was interested in the President and in his reelection, tell the President that he owed a duty of moral leadership and that he ought to find out immediately, not after 9 months, but immediately, how it happened that five burglars were caught in the headquarters of the opposition political party with four of them having his campaign funds donated to help his reelection in their pockets.

Can you explain to me why there wasn't somebody connected with the Committee To Re-Elect the President or somebody who had a responsible position in the White House who didn't say something to the President why he should exercise that moral leadership, and expose this shocking event?

Mr. MARDIAN. I can't explain that, Mr. Chairman.

Senator ERVIN. I believe I had better go and vote now.

I might state the only reason I know that the vote is on is because I received by wire advice to that effect.

[Recess.]

Senator BAKER. If there is no objection on the part of committee members, it is 5 minutes to 5 now and there is another vote on the signal on the clock and I think it would be counterproductive to try to come back after this vote. I understand there is still another vote immedi-

ately after that, so, Mr. Mardian, if you are agreeable we will defer the rest of your testimony until tomorrow morning at 10.

Mr. MARDIAN. Thank you.

Senator BAKER. The committee will stand in recess until 10 o'clock tomorrow morning.

[Whereupon, at 4:55 p.m., the committee recessed, to reconvene at 10 a.m., Friday, July 20, 1973.]



FRIDAY, JULY 20, 1973

U.S. SENATE,  
SELECT COMMITTEE ON  
PRESIDENTIAL CAMPAIGN ACTIVITIES,  
*Washington, D.C.*

The Select Committee met, pursuant to recess, at 10:05 a.m., in room 318, Russell Senate Office Building, Senator Sam J. Ervin, Jr., (chairman), presiding.

Present: Senators Ervin, Talmadge, Inouye, Montoya, Baker, Gurney, and Weicker.

Also present: Samuel Dash, chief counsel and staff director; Fred D. Thompson, minority counsel; Rufus L. Edmisten, deputy chief counsel; Arthur S. Miller, chief consultant; Jed Johnson, consultant; David M. Dorsen, James Hamilton, and Terry F. Lenzner, assistant chief counsels; R. Phillip Haire, Marc Lackritz, William T. Mayton, Ronald D. Rotunda, and Barry Schochet, assistant majority counsels; Eugene Boyce, hearings record counsel; Donald G. Sanders, deputy minority counsel; Howard S. Liebengood, H. William Shure, and Robert Silverstein, assistant minority counsels; Pauline O. Dement, research assistant; Eiler Ravnholt, office of Senator Inouye; Robert Baca, office of Senator Montoya; Ron McMahan, assistant to Senator Baker; A. Searle Field, assistant to Senator Weicker; Michael Flanagan, assistant publications clerk.

Senator ERVIN. The committee will come to order. Senator Baker.

Senator BAKER. Thank you, Mr. Chairman.

Mr. Chairman, I am sure you will not mind, and I am sure the witness will not mind, if I inject a brief note of levity this morning. After our sad experience with the hoax, the phone call yesterday, I overheard the press corps remark that the real Alex Butterfield is in Tijuana—bound in tape.

Senator ERVIN. I would just like to say, to quote the scriptures again, it is stated in the Book of Proverbs that a merry heart, such as that Senator Baker possesses, doeth good like a medicine.

Senator BAKER. It is bad medicine.

Mr. Mardian, you have gone over your testimony, as other witnesses have, at great length, and there has been an exhaustive examination by counsel for the committee and members of the committee, and I am today going to limit my questions fairly severely and try to impose on myself about a 10-minute rule without suggesting to committee members that we invoke any such rule. I intend to do that just for the sake of trying to move through the testimony.

It is clear, Mr. Mardian, that there are certain essential conflicts in your testimony and that of Mr. Dean. There are other apparent conflicts between your testimony and that of Mr. Stans. Let us talk about the Dean testimony for a moment. Do you have any idea when you last talked to Mr. Dean and about what and, more particularly,

do you have any recollection of having discussed your testimony or his testimony that would be given before this committee?

**TESTIMONY OF ROBERT C. MARDIAN—Resumed**

**Mr. MARDIAN.** I do not know that I have talked to John Dean since I left Washington on November 10. It is possible I saw him during the inaugural ceremonies but I have not discussed with him my testimony nor he his testimony with me.

**Senator BAKER.** Have you read the opening statement that Mr. Dean filed with and read to the committee?

**Mr. MARDIAN.** I believe that I read—I do not think I read the entire transcript but I may have. It has been some time.

**Senator BAKER.** Are there any other points in the Dean testimony or the Magruder testimony or the Stans testimony that you feel do not portray an event in the same way that you recall it? You have identified some but, based on your information about those witnesses' testimony, are there any other important, significant events in which you have a different or contrary view?

**Mr. MARDIAN.** I would have to go over his testimony and his opening statement.

**Senator BAKER.** There are none that come to mind at the moment as being particularly significant or outstanding?

**Mr. MARDIAN.** Not that I can think of. There may be some significant ones.

**Senator BAKER.** Rather than ask you to go over that testimony now, for the opening statement of Mr. Dean, of course, was over 240 pages, and the Magruder testimony was rather extensive, as was the Stans testimony, would you be agreeable, Mr. Mardian, to reviewing those three pieces of testimony and the testimony of Mr. Mitchell, that would make four, and note for this record in a letter later any other important and significant discrepancies in that they do not accord with your recollection of events about which you have knowledge?

**Mr. MARDIAN.** Yes, if I am furnished with transcripts. I do not have them, I do not believe.

**Senator BAKER.** Would you be agreeable to returning if necessary, to expound further on any such points of conflict?

**Mr. MARDIAN.** Yes, sir.

**Senator BAKER.** Mr. Chairman, I ask unanimous consent that a copy of the testimony of Mr. Dean, Mr. Magruder, Mr. Stans and Mr. Mitchell be supplied to the witness, and that he may be permitted to supply to the committee as a late filed exhibit any such notations as he pleases with the understanding that the committee may ask him to return—and Mr. LaRue, the five.

**Senator ERVIN.** Without objection on the part of any member of the committee, the staff will comply with the request of the vice chairman.

**Senator BAKER.** I am not placing any time limitation on that, Mr. Mardian, but obviously, we want to move as fast as we reasonably can, so if you can supply that information as promptly as you can we would be grateful and you need not complete it before you send any particular portions of it. You can send it as you do complete it, and the staff will work out with you the details on how that should be done.

Mr. MARDIAN. Yes, sir.

Senator BAKER. While you were at the Justice Department, Mr. Mardian, did you have any dealings with Mr. Liddy?

Mr. MARDIAN. Yes.

Senator BAKER. Are you aware of the so-called Plumbers operation at the White House in which Mr. Liddy was apparently involved?

Mr. MARDIAN. I was not aware of the Plumbers operation until after the Watergate break-in and I recall a reporter from Time magazine, I believe, who asked me if I was aware of the Plumbers and I said I did not—I was not aware of them, had not heard the word and he said, "You must have, they had a sign on the door called the Plumbers," and I said, "Well, I did not go by that door."

Senator BAKER. But you were not aware of the term, "the Plumbers," or of the function of that group within the White House while you were at Justice or prior to the events in which they were engaged?

Mr. MARDIAN. No, sir.

Senator BAKER. Did you ever talk to Mr. Liddy about anything that you now identify as being part of the Plumbers operation?

Mr. MARDIAN. No, sir.

My first meeting with Mr. Liddy, and I don't think I was aware that he was Mr. Liddy at the time, was when I arbitrated a treaty between the Justice Department, the FBI, and the Alcohol, Tobacco, and Firearms Division and the staffs of the two agencies, the bureau of the agency came to my office, and because of the conflict in jurisdiction over the bombing statute that had been enacted where Congress gave joint investigative jurisdiction to the Bureau and the Alcohol, Tobacco, and Firearms Division that it resulted in sort of a jurisdictional dispute. Mr. Sullivan was a friend of mine, Mr. Rossides was a friend of mine and they made me aware of the conflict. I suggested they come to my office or they suggested it, I don't know, but we sat down over a period of a day or two and worked out a 6-month agreement which we had called a treaty, whereby they would try to operate under, to divide up the types of cases each would investigate. Mr. Liddy was a part of that group, as I recall.

Senator BAKER. Did you have dealings with Mr. Liddy in that connection?

Mr. MARDIAN. I don't think so. My dealings were mainly with Mr. Rossides—Secretary Rossides and Mr. Sullivan, who was then the Associate Director of the FBI.

Senator BAKER. Were you at that time Assistant Attorney General for Internal Security Affairs?

Mr. MARDIAN. Yes, sir.

Senator BAKER. Did you ever have any conversations with Mr. Gray or with his predecessor, Mr. Hoover, about any matter relevant to this inquiry?

Mr. MARDIAN. To this inquiry?

Senator BAKER. Yes, sir.

Mr. Mardian, I note that Mr. Dean states that, I believe in an executive session, I am not sure it was discussed fully in the public record, but on June 16, 1973, I believe Mr. Dean said that you, Mr. Parkinson, O'Brien, and Chapin and Strachan went over certain FBI reports and that you were critical of the FBI or the so-called Gray investigation?



Mr. MARDIAN. I have no recollection of ever meeting with Mr. Strachan. I told the committee staff that I was aware that Mr. Dean did have FBI report. The only document that I am aware of, it was either shown to me or read to me and I believe it was read to me by Mr. Dean and it was an FBI teletype from Mr. Gray to, I believe, all of the FBI offices in connection with the investigation of Watergate.

Senator BAKER. Did you ever talk to Mr. Hoover while you were Assistant Attorney General for Internal Security?

Mr. MARDIAN. Yes, sir.

Senator BAKER. Did you ever talk to him about the Plumbers group or internal security functions being carried on by the White House?

Mr. MARDIAN. No, sir.

Senator BAKER. Did you ever talk to him about the White House staff and their relationship to the FBI or the Department of Justice?

Mr. MARDIAN. No, sir; not to my knowledge.

Senator BAKER. Did he ever talk to you?

Mr. MARDIAN. No, sir. If Mr. Hoover had been aware of the Plumbers group I think we would have heard about it.

Senator BAKER. Were you aware that at one time there was a good bit of talk about Mr. Hoover retiring or resigning as director?

Mr. MARDIAN. Yes.

Senator BAKER. Did you have any personal knowledge or conversation with Mr. Hoover about that situation?

Mr. MARDIAN. No, sir.

Senator BAKER. Did you have any idea why the White House did take over some of what I would consider internal security operations instead of leaving it in your department or with the FBI?

Mr. MARDIAN. It would be pure speculation.

Senator BAKER. You have no basis for knowledge or basis of knowledge.

Mr. MARDIAN. It would be pure speculation on my part, Senator.

Senator BAKER. Would you care to speculate? If you prefer not to it is all right, but if you would care to I would be happy to have it as long as that speculation is based on your perception of the attitude, relationships, or any facts known to you. If you think that would be helpful to the record we would be happy to have it.

Mr. MARDIAN. I can only say that he apparently lacked confidence in our ability to do the job.

Senator BAKER. Our ability, meaning the Justice Department ability?

Mr. MARDIAN. Yes, sir.

Senator BAKER. Meaning the Internal Security Division, the Federal Bureau of Investigation?

Mr. MARDIAN. Well, if it fell within the gamut of the Internal Security Division, yes, sir.

Senator BAKER. Do you have any reason to think there was a lack of confidence that led the White House to take independent action?

Mr. MARDIAN. Well, that is the basis of my speculation. I can't think of any other reason for creating such a group.

Senator BAKER. Did anybody ever tell you that or intimate that or did you infer that from any other facts or circumstances at the time?

Mr. MARDIAN. I am only inferring that from the revelations that have come out now. We had an FBI, a good FBI; we had a good

Justice Department. It seems to me that—well, I just drew the conclusion if they felt they had to do what they were doing they had a lack of confidence in us.

Senator BAKER. Did you sense any resentment in your department or did you resent the transfer, or apparent transfer of these functions in part to the White House staff or do you resent it now?

Mr. MARDIAN. I had no knowledge of any transfer of any functions from the Justice Department to the White House.

Senator BAKER. Mr. Mardian, my 10 minutes have expired. I have other questions and I will return to that later on.

Thank you, Mr. Chairman.

Senator ERVIN. Senator Talmadge.

Senator TALMADGE. Mr. Mardian, I also will attempt to be brief in order to expedite the hearings as rapidly as possible. There are a few questions that I have for clarification.

Did you ask Mr. LaRue if he had known about the break-in ahead of time?

Mr. MARDIAN. I cannot recall any specific time I said, "Fred, did you know about it ahead of time?" until after these hearings started.

Senator TALMADGE. Did he tell you he did?

Mr. MARDIAN. I asked him; I believe he called me and told me that he was going to the U.S. attorney's office and I asked him on that occasion, I said, "Fred, did you know about it ahead of time?" And he said, "Yes."

Senator TALMADGE. Did you ask him if John knew?

Mr. MARDIAN. Pardon me. I do not think—the question that I asked him was not specifically about the break-in itself. Did he know about the activities? And he said, "Yes."

Senator TALMADGE. Did you ask him if John knew?

Mr. MARDIAN. Yes, sir.

Senator TALMADGE. What was his response?

Mr. MARDIAN. I may be mistaken as to what he said at the time. I said my next question, as I recall it at that time, was: "Did John know about it ahead of time?"

He said, "Yes."

Senator TALMADGE. And you were referring to John Mitchell?

Mr. MARDIAN. Yes.

I then said what does John say?

He says, "John says no."

Now, subsequently, after my appearance before, I believe, the grand jury, I talked to Fred. He called me and asked me about what had transpired with reference to him, and I said, they asked me if I had talked to you, they asked me about everybody I had talked to and as I believe the only person I had talked to was Fred LaRue, I related what I just told you; and Fred said, "My God, you did not say that, did you?"

I said, "Yes."

And he said, "Bob, I do not think I said that."

Now, I could be mistaken, but I am giving you my best recollection.

Senator TALMADGE. Now, you were all close confidantes, high White House officials, and the President himself. You previously held a high position in the Department of Justice, with the responsibility of upholding the laws of the country. Why did you involve yourself in a

coverup of the Watergate? Mr. Mitchell testified the reason he did it was because he was afraid the President would lower the boom, others because they assumed that the White House staff had approved this operation. What was your reason, Mr. Mardian?

Mr. MARDIAN. Senator, I do not know what you mean by "coverup." If you mean by coverup my not being forthcoming and disclosing everything I knew, I felt that my oath as an attorney prevented me from doing that.

Senator TALMADGE. Now, let me ask you another question. I believe you and Mr. Magruder and Mr. Mitchell were all together on June 19, as I recall, and there was something said about \$40,000. Magruder, I believe, made the statement and asked Mr. Mitchell if he did not approve the \$250,000 budget for the espionage activities. Did Mr. Mitchell answer in the affirmative?

Mr. MARDIAN. Pardon me, did you say June 19?

Senator TALMADGE. Or some time thereabouts. Or any date you can recall. I am not so much interested in the date as I am the subject matter of the conversation and the response.

Mr. MARDIAN. The date, I believe, was subsequent to that; was probably the latter part of that week. I think it was the 23d or 24th. I asked Mr. Magruder in the presence of Mr. Mitchell how much money he had given to Mr. Liddy. He said he had given Mr. Liddy or authorized Mr. Sloan to give Mr. Liddy \$40,000. I must have registered surprise and said, "\$40,000?" And Mr. Mitchell did much the same. And he turned to Mr. Mitchell and he said, "Well, that is not much out of the total budget of \$250,000."

Mr. Mitchell's answer was, "But the campaign has not even started yet."

Now, that is the best of my recollection of that conversation.

Senator TALMADGE. You understood that declaration on the part of Mr. Mitchell to mean that he had approved the \$250,000 operation, did you not—these espionage activities?

Mr. MARDIAN. If you want my—I do not know that the thought crossed my mind, did Mr. Mitchell authorize the \$250,000. Based on the conversation I heard, I would assume that Mr. Mitchell, not having denied that statement, acquiesced in it. His response was, "I did not authorize \$250,000; the campaign has not started yet."

Senator TALMADGE. Let me ask you something Senator Baker touched on briefly, but I do not think he covered it in detail. Did you make a trip in July 1972 by courier plane to see the President of the United States in San Clemente, Calif.?

Mr. MARDIAN. Yes, sir.

Senator TALMADGE. At the President's request?

Mr. MARDIAN. Yes, sir.

Senator TALMADGE. What was the reason for that trip?

Mr. MARDIAN. Prior to my making that trip, Mr. William Sullivan, Associate Director of the FBI, came to see me, told me he wanted to talk to me about a very sensitive matter. He told me that, and he, I guess, had expressed this to me for some period of time. He and Mr. Hoover were not getting along very well. He anticipated his removal as Associate Director and at that time, he was, in effect, the operating head of the FBI, other than Mr. Hoover. He told me that there were some very sensitive national security surveillance logs that were not,

I believe he used the word "in-channel"—I don't know that he did, but they were not kept in the ordinary course of business. They were kept in his safe in his office. He felt that the highly sensitive nature of those tapes was such that they should not be kept there, especially if he were to be removed from office.

He was concerned about what might be done with these tapes, and I am not positive of this. I don't know what Mr. Sullivan's recollection is. My recollection is that Mr. Hoover might use these tapes for the purpose of preserving his position as Director of the FBI. And he felt that the White House should be aware of this. I told him that I would convey this information to the Attorney General.

Senator TALMADGE. And what was the President's direction?

Mr. MARDIAN. I didn't talk to the President that time. I merely told the Attorney General of my conversation.

Senator TALMADGE. Didn't you go out to see the President himself?

Mr. MARDIAN. It was subsequent to that. I had not heard from the Attorney General. I had several inquiries from Mr. Sullivan. I said I had done what I had said I would do. Subsequent to that time—I don't know the date—I got a call, I believe it was on a Sunday. The call was from the western White House. I think it was Mr. Ehrlichman. It may have been Mr. Haldeman. He told me that the President would like to talk to me and whether it would be convenient for me to take the courier plane—a mail plane goes back and forth from Andrews to El Toro Marine Base, I believe on a regular daily basis—it goes one day and comes the next. I would be able to take the courier plane that day so that I would be available to see the President the following morning. I said I would.

I went to Andrews and I took that courier plane.

Senator TALMADGE. And what did the President tell you to do with these?

Mr. MARDIAN. Pardon me. Do you want the conversation with the President?

Senator TALMADGE. I want to find out what the President directed you to do with these reports that Sullivan had.

Mr. MARDIAN. He directed me to obtain the reports from Sullivan and deliver them to Mr. Ehrlichman.

Senator TALMADGE. And did you do so?

Mr. MARDIAN. Yes, sir.

Senator TALMADGE. And what did those tapes concern?

Mr. MARDIAN. The tapes concerned electronic surveillance authorized by the President, I was told, at the request of the Director of the National Security Council.

Senator TALMADGE. And what has happened to them? Are they still in the White House?

Mr. MARDIAN. I understand from news reports that they are in the possession of the Bureau.

Senator TALMADGE. The reason at that time was to keep Mr. Hoover from having access to these reports?

Mr. MARDIAN. I think I have related what I was told and you will have to draw your own conclusion from that, Senator.

Senator TALMADGE. That was what Sullivan told you and what you reported to the President?

Mr. MARDIAN. Yes, sir.

Senator TALMADGE. Now, you have testified that you tried to quit your committee assignment—that is, the Committee To Re-Elect the President—at least three times but was induced to stay on. How were you induced to stay on?

Mr. MARDIAN. By persuasion.

Senator TALMADGE. By whom?

Mr. MARDIAN. By Mr. Mitchell and others.

Senator TALMADGE. Why did you want to leave?

Mr. MARDIAN. After the disclosures that were made to me by Mr. Liddy, I just felt I did not, could not adequately represent the committee. As I said, I have never practiced criminal law and I have never had disclosures of that type ever made to me.

Senator TALMADGE. You felt like you had had enough, is that the reason?

Mr. MARDIAN. I was placed in a very difficult position.

Senator TALMADGE. I can understand that.

Now, you also testified that you felt that it was blackmail of Mr. Bittman to ask for \$25,000 more. Why did you feel that it was blackmail?

Mr. MARDIAN. I only meant that, Senator—there are two connotations you put on it. That happened to be my immediate reaction. It seemed like an excessive fee to represent a person who was charged with a burglary.

Senator TALMADGE. How many of these people did Mr. Bittman represent?

Mr. MARDIAN. I believe one person.

Senator TALMADGE. And what was the total amount paid to him?

Mr. MARDIAN. I don't know. I didn't know the \$25,000 had been paid to him until these—

Senator TALMADGE. I think it was several different sums, close to \$100,000—or \$157,000, I am informed. I agree with you that that was a grossly excessive fee for representing one burglar.

Mr. MARDIAN. Counsel suggests that I answer my question that I didn't even know he had obtained the \$25,000 until these proceedings commenced—these hearings.

Senator TALMADGE. Thank you very much, Mr. Mardian.

I have no further questions, Mr. Chairman.

Mr. MARDIAN. Thank you.

Senator ERVIN. Senator Gurney.

Senator GURNEY. Mr. Mardian, I suppose there were three issues involved in this sad affair. One, the planning of the break-in or bugging, the coverup, and whether or not the President of the United States was involved in any of this.

As I understand from your testimony, you were, in your own words, the attorney for the committee here for a few weeks following the break-in until you disengaged from those duties and went to political duties.

Mr. MARDIAN. To the extent that I could disengage.

Senator GURNEY. Yes. And during that time, of course, you had a number of conferences with a great many people who have become, shall we say, leading characters in Watergate, and also, of course, have been witnesses before the committee and are still to come before us.

My question is this: Do you know of your own knowledge who authorized the Watergate break-in and bugging?

Mr. MARDIAN. No, I do not.

Senator GURNEY. Other than Mr. Liddy, did anybody during this time, or any other time, for that matter, give you any piece of information at all about who authorized the planning of the bugging and break-in of Watergate?

Mr. MARDIAN. Other than Mr. Liddy?

Senator GURNEY. Other than Mr. Liddy.

Mr. MARDIAN. No; I heard a lot of speculation, Senator, but nothing that anyone could put their finger on.

Senator GURNEY. Mr. Mitchell never revealed anything about this?

Mr. MARDIAN. No, sir.

Senator GURNEY. Or Mr. Magruder?

Mr. MARDIAN. No, sir.

Senator GURNEY. Or Mr. LaRue?

Mr. MARDIAN. No, sir.

Senator GURNEY. Or Mr. Haldeman?

Mr. MARDIAN. No—I didn't talk to Mr. Haldeman.

Senator GURNEY. Or Mr. Ehrlichman?

Mr. MARDIAN. I didn't talk to Mr. Ehrlichman.

Senator GURNEY. Or Mr. Colson?

Mr. MARDIAN. I didn't talk to Mr. Colson.

Senator GURNEY. Mr. Dean?

Mr. MARDIAN. I talked to Mr. Dean.

Senator GURNEY. Did he reveal anything about who might have authorized the planning and break-in of Watergate?

Mr. MARDIAN. No; Mr. Dean used to conjecture with me as to where it was and where it led.

Senator GURNEY. Let us go back to the meeting with Liddy, because that obviously is a very key and important meeting. You really are the only witness so far who has given us any information on what Mr. Liddy said, who was a key figure in Watergate, of course; he has refused to testify either before the committee, or to anyone else, for that matter, and I would like to go back to that Liddy meeting and ask you about two of the pieces of testimony that you gave the committee. One, as I recall it yesterday, is Mr. Liddy told you that Watergate was an ongoing project that had the full authority of the President. Was that your testimony?

Mr. MARDIAN. No; I do not believe I said the Watergate, sir. I said that the operations of the group in which he was working had been an ongoing operation of which Watergate was one.

Senator GURNEY. What did he mean by the group with which he was working? Did he tell you who that group was?

Mr. MARDIAN. Well, it came about with reference to a question that I asked concerning the, as I recall, the bungling effort. You may recall some of the newspaper accounts, and it was then that he said that he was working with pros, men of considerable experience that this was just one of their jobs. They had done many, and they had all been successful.

I presumed from that that they were the same group, in other words, the ones that were caught, along with Mr. Hunt.

Senator GURNEY. Did he mention any names?

Mr. MARDIAN. No, sir.

Senator GURNEY. Not even the name of Mr. Hunt?

Mr. MARDIAN. Well, yes, I thought you meant other than the—  
 Senator GURNEY. What did he say about Hunt?

Mr. MARDIAN. That he had high regard for Mr. Hunt, as I think I have testified; that Mr. Hunt was in the type of business that he had been engaged in all his life. He was the chief planner, as I recall, for the Bay of Pigs invasion.

Senator GURNEY. These are things he told you at that meeting?

Mr. MARDIAN. Yes, sir.

Senator GURNEY. What about McCord; did he say anything about him?

Mr. MARDIAN. No, I do not—other than the fact that he had violated his instructions in hiring Mr. McCord. That his instructions were not to hire anyone connected with the committee.

Senator GURNEY. Who gave him those instructions?

Mr. MARDIAN. I believe he said Mr. Magruder. It seemed rather incongruous for me to have said that because he was an employee of the committee and Mr. Hunt was an employee—was apparently an employee of the White House. That is what he said.

Senator GURNEY. And your recollection is that he said that Mr. Magruder told him not to hire Mr. McCord?

Mr. MARDIAN. That is my best recollection—well, not Mr. McCord, not to hire anyone that had any connection with the committee or the White House; and I recall that because it seemed a little incongruous with him and Mr. Hunt involved.

Senator GURNEY. Could you amplify any further about these instructions by Magruder? What instructions was he talking about from Mr. Magruder?

Mr. MARDIAN. I do not recall any other instructions, other than his statement that he and Mr. Hunt had not wanted to go into the Watergate, and that he had done so only at the insistence of Mr. Magruder. That was his statement.

Senator GURNEY. Why did he say he did not want to do—to go into the Watergate?

Mr. MARDIAN. I think that was in response to my question that it seemed like a very foolish adventure that did not make any sense to break into the Democratic National Committee headquarters.

Senator GURNEY. Now, did you discuss both break-ins? There were two, of course: One that went undetected and the second one that was detected.

Mr. MARDIAN. Only to the extent that, as I recall what he told me was that they had placed the bug in the wrong office, that is my best recollection.

Senator GURNEY. And from that then, the instructions of Magruder were to correct that error; is that your testimony?

Mr. MARDIAN. I do not recall his having said that, but that is what he stated the purpose of the entry was.

Senator GURNEY. Now, back again to the instructions from Magruder. In all this discussion with Mr. Liddy, you were talking about the Watergate; is that not correct? And you would assume that is what instructions meant; is that correct?

Mr. MARDIAN. Yes, sir.

Senator GURNEY. You were not discussing any other venture?

Mr. MARDIAN. Not at that point.

Senator GURNEY. Not at this time that we are talking about?

Mr. MARDIAN. This discussion of the other adventures came up later.

Senator GURNEY. Let us go back to this authority of the President. Will you discuss that a little more, because that is extremely important. Here is Liddy's testimony, the only testimony we have.

Mr. MARDIAN. I might say I have not been asked to speculate. I did not put any credence in that when he told me any more than I did when he told me he had shredded \$100 bills. I tried to relate as factually as I can what he told me.

Senator GURNEY. Did you inquire of him, Mr. Mardian, now, "Liddy, what do you mean about authority from the President?" Did you go into that at all with him and interrogate him on that?

Mr. MARDIAN. No, Senator; I told the staff, I guess I could have been a better interrogator had I not been in shock, and I think I said, and as counsel points out, I cannot recall his using the word "President." I did testify that it was—the words he used were clearly meant to imply that; and that is the way I understood it.

Senator GURNEY. But you do not actually recall whether he mentioned the name or not, or the title?

Mr. MARDIAN. No, sir.

Senator GURNEY. There is another part of that testimony that I think is extremely important, too, that you testified to yesterday, and that was that the budget that Mr. Liddy had was approved by John Mitchell, director of the campaign to re-elect the President, and the White House. Would you go into that further because that is a very important piece of testimony, too?

Mr. MARDIAN. That is all I can tell you, Senator. Again——

Senator GURNEY. Did he say he had discussed the budget with John Mitchell?

Mr. MARDIAN. I used the term "budget." He may have said financing of the operation; the use of the word "budget" may have been wrong. The general—I have tried to recall as best I can the conversation. I remember that one better than most because——

Senator GURNEY. It was so shocking?

Mr. MARDIAN. Because of the disclosures that were made.

Senator GURNEY. I know it is hard to remember a year back but those were two very important pieces of information.

Mr. MARDIAN. He may not have said budget. He may have said it was financed with the approval of Mr. Mitchell and the White House. He may not have said budget, I just——

Senator GURNEY. But again on that score did you ask him at all about, "Well, when did John Mitchell approve this?"

Mr. MARDIAN. No, sir.

Senator GURNEY. "Did he approve personally?"

Mr. MARDIAN. I am sorry?

Senator GURNEY. I am asking questions that you might have asked him, and I am just asking if you asked those.

Mr. MARDIAN. Senator, at the time he was telling me these things I wasn't believing much of it. I was taking it as defensive statements justifying his conduct.

Senator GURNEY. I see. So you didn't probe that at all?

Mr. MARDIAN. I don't think I did.



Senator GURNEY. What about the business about the White House approving either the budget or the money or the operation; did you ask who in the White House approved it?

Mr. MARDIAN. No, sir. After he implied to me, if he didn't say the President—I didn't think there was any further up, any higher to go than that.

Senator GURNEY. Was it also during this meeting that he said that if it is necessary, assassinate me; is that right?

Mr. MARDIAN. I had forgotten this until Mr. LaRue testified to it. But he did say, as I recall now, that he would never talk; he would take the fifth amendment, and that if we didn't have confidence in that that he would make himself—he did say that he was morally opposed to suicide, but that if we would designate a particular street corner for him to stand on he would make himself available to be shot, killed, assassinated. Mr. LaRue used the term "assassinated," and I used it maybe because of that, but that is what he said.

Senator GURNEY. What was your reaction to that?

Mr. MARDIAN. Much the same reaction to everything else he told me that day.

Senator GURNEY. That his credibility would be in question with you?

Mr. MARDIAN. It was a very bizarre story. I had never heard one like it before in my life. That is the only way I can characterize it.

Senator GURNEY. Just one final series of questions which I have been asking many of the witnesses. Have you ever had any meeting or conversation with President Nixon on this Watergate affair this year or last year?

Mr. MARDIAN. No, sir.

Senator GURNEY. Never a single one?

Mr. MARDIAN. Never.

Senator GURNEY. Have you ever heard anybody say, anybody in the Committee To Re-Elect the President or outside the Committee To Re-Elect the President, in the White House or elsewhere, that they knew anything about any bit or piece of information about whether the President knew about Watergate or knew about the coverup?

Mr. MARDIAN. No, sir.

Senator GURNEY. Never in any of your conversations with Mitchell or any of these other people?

Mr. MARDIAN. No, sir.

Senator GURNEY. Thank you. That is all, Mr. Chairman.

Senator ERVIN. Senator Inouye.

Senator INOUE. Thank you, sir.

Mr. Mardian, in the early days of our proceedings Mr. McCord testified that he had received special information from your Internal Security Division; is that correct, sir?

Mr. MARDIAN. I would not describe it as special, Senator. He, as I understand it, did receive information from the Interdivisional Information Unit of the Justice Department.

Senator INOUE. What was the nature of the information?

Mr. MARDIAN. I wasn't at the briefings; I feel confident it was confined to information relating to the potential for civil disorder at the Republican National Convention.

Senator INOUE. Was this information available to the public?

Mr. MARDIAN. It was available under the guidelines to any entity that might be the subject of violent civil disorder and the appropriate people that should know of the potential so that they might assess it.

Senator INOUE. Did your Internal Security Division ever conduct investigations of congressional or senatorial candidates?

Mr. MARDIAN. No, sir. We were not an operational division.

Senator INOUE. Did you ever conduct investigations of Members of Congress?

Mr. MARDIAN. No, sir. We—as I say, there has been some misunderstanding in some of the testimony.

Senator INOUE. I am giving you the opportunity.

Mr. MARDIAN. The division did not have an operational function, sir.

Senator INOUE. Where did you get the information that you imparted to Mr. McCord if you were not the operational arm?

Mr. MARDIAN. IDIU obtained, I would get—and I have so testified—over 80 percent of its information from newspapers, young people—it started out as a summer group in 1967; there were young people, college students, and it was under the auspices or it was initiated by Ramsey Clark in response to the Kerner Commission report, and I would say and I have testified that 85 percent of it was public information that they put together.

Other information came from the Federal Bureau of Investigation, and our operator agencies, Alcohol, Tobacco, Firearms, if they were aware of something, if local police would supply information, in that it related to anything which the Federal Government might become involved in, in other words jurisdictional matters.

Senator INOUE. As a member, and an important member, of the Justice Department, were you ever aware that any division within the Department had ever conducted investigations of Members of Congress?

Mr. MARDIAN. Not to my knowledge.

Senator INOUE. Are you certain that in your conversations with Mr. Mitchell, Mr. Mitchell never discussed his knowledge of the pre-Watergate meetings with you?

Mr. MARDIAN. Never, sir.

Senator INOUE. Did Mr. Mitchell ever suggest to you that he had discussed the Watergate problems with the President of the United States?

Mr. MARDIAN. Never.

Senator INOUE. Did he ever suggest to you that he had lied to the President of the United States?

Mr. MARDIAN. Never.

Senator INOUE. You are considered very close to Mr. Mitchell. I believe your profile maintains that he is your sponsor, and you have never discussed anything this important?

Mr. MARDIAN. I didn't realize I had a profile that said he was my sponsor.

Senator INOUE. Maybe that is the wrong word to use here. But is it your testimony that at no time you discussed Watergate together?

Mr. MARDIAN. Mr. Mitchell and I?

Senator INOUE. Yes.

Mr. MARDIAN. Oh, yes; I talked about Watergate with him quite often. I thought you were referring to discussing, whether he discussed.

Senator INOUE. In your discussions did he ever tell you that he discussed this matter with the President of the United States?

Mr. MARDIAN. No, he never disclosed to me any discussion that I can recall with the President of the United States on any subject. There may have been but none comes to mind.

Senator INOUE. In the early days of our proceedings it was suggested that the major reason for the Watergate break-in was security, and Mr. McCord and others suggested that information was possibly available in the headquarters which would indicate that members of the Democratic Party, in concert with foreign powers, were out to destroy the country or to do damage.

In all of your service in the U.S. Department of Justice, do you know of any incidents where members of the Democratic Party constituted a national security problem to the United States of America?

Mr. MARDIAN. May I answer your question and then respond to it, sir?

Senator INOUE. Please do, sir.

Mr. MARDIAN. I know of no information that was ever brought to my attention that anybody in the Democratic Party was sponsored by any foreign power or that they posed any threat at all in the form of violence or otherwise to the Republican Party or the security of the United States.

Now, if I may respond to your prefatory statement, you indicated, and I am surprised this question hasn't been asked yet, you indicated that Mr. McCord came to these conclusions based upon information he obtained from the Justice Department. His testimony was he didn't obtain any information until the latter part of May, and yet he also testified that he was involved with these people in a break-in sometime in the early part of May—I believe it was on May 3. And yet his own testimony is he didn't obtain any information—well, there was a break-in May 30.

Senator INOUE. So he had it before then?

Mr. MARDIAN. Well, he was involved, as I understand it, with these people before that time, and there certainly could not have been any information conveyed to him—

Senator INOUE. The information apparently conveyed to the people from that was that information was available in the Democratic National Committee to indicate that members of the party constituted a national security problem.

Mr. MARDIAN. I did not hear that testimony, and I am sure he never got any such information from the Department of Justice.

Senator INOUE. Well, we have been waiting for some response from the Department. We have submitted a request as to this national security problem. I do not suppose we have ever received it. But is your testimony, as former head of the Internal Security Division, that members of the party did not constitute a national security problem?

Mr. MARDIAN. Absolutely not. I have never heard any responsible official in the Department of Justice suggest that.

Senator INOUE. You have heard much about the White House horror stories from Mr. Mitchell and I believe you have related some.

Are there any other horror stories other than the Watergate, Dita Beard, Ellsberg break-in?

Mr. MARDIAN. No; as I said, if I had interrogated Mr. Liddy further, I might have found out some more.

Senator INOUE. I ask you this because Mr. Mitchell suggested that this was just the tip of an iceberg?

Mr. MARDIAN. Mr. Mitchell may be privy to more knowledge than I have, sir.

Senator INOUE. Miss Vicki Chern, secretary to Jeb Magruder, suggested that Mr. Liddy, Mr. Magruder, Mr. Mardian, and Mr. LaRue had a series of meetings in May of 1972. Do you recall a series of meetings with Mr. Magruder, Mr. LaRue, and Mr. Liddy?

Mr. MARDIAN. No, sir, and whoever made that statement has got me mixed up with somebody else. If I had a series of meetings with Mr. Liddy, I would have recalled them.

Senator INOUE. What about Mr. Magruder or Mr. LaRue?

Mr. MARDIAN. I saw them quite often. I did not have a series of meetings with Mr. Magruder and Mr. LaRue in May, to my knowledge, but—I just came to the committee in May.

Senator INOUE. Did you discuss electronic surveillance or intelligence gathering at these meetings?

Mr. MARDIAN. Never. You say at these meetings; I do not admit to being present at any such meetings.

Senator INOUE. One final question, sir. Many of us are impressed by your legal background. Your biographical sketch indicates that you had the highest grades ever for a first-year student in law school, you did very well as a corporate lawyer, and apparently, your experience in the Justice Department singled you out as almost Mr. Law and Order. And now I quote from your statement:

If I make no other point in this brief prefatory statement, I would like it in the record that as of the morning of June 17, 1972, I was relieved of my political responsibilities to the extent possible and charged with the responsibility of acting as counsel to the committee, at least as far as Watergate was concerned.

Then, you have a very interesting statement on the following page:

Commencing the morning of June 17, 1972,—

When you became lawyer—

information was imparted to me bit by bit, much of it contradictory, which drew me inexorably into an intolerable and, at times, unbearable situation of personal conscience—a situation in which I was precluded from acting according to the dictates of my personal desires or interests. A situation in which ultimately my only hope was the selfish one of not becoming implicated in the conduct of others who I felt it my duty to serve.

Are you trying to suggest that, as a lawyer, the advice and counsel that you provided your clients was not according to the dictates of your personal desires or interests?

Mr. MARDIAN. No, sir, and I do not think—I do not want to be contumacious. I do not think that is a fair reading. It may be. To me—

Senator INOUE. It says you were precluded from acting according to the dictates of your personal conscience.

Mr. MARDIAN. Yes, sir. My conscience is one thing and the ethics of my profession demanded at that time something else.

Senator INOUE. Does the ethics of your profession require you to tell your clients to lie?

Mr. MARDIAN. I do not think that that statement indicates that, sir. What I was trying to indicate was that Mr. Liddy imparted information to me on June 21 which, had it been imparted to me less than 2 months before, I would have had him arrested. I was a former Assistant Attorney General of the United States; my boss was the former Attorney General of the United States; my best friend was the Attorney General of the United States. And he was imparting information to me that indicated not only that crime, but a series of other crimes perpetrated by people in the White House that I had worked for. Now that is all I was trying to say by being drawn inexorably into a situation of personal conscience.

Senator INOUE. Even if you felt that these activities had the potential of hurting the President of the United States you decided that the ethics of your profession required you to keep the lid on?

Mr. MARDIAN. Senator, I made—I gave a man my word under my oath that he could confide in me. I thought I was just investigating one crime. He imparted to me knowledge of other felonies, and as I read my oath, I was duty-bound not to disclose that confidence. And had I gone to the authorities that day and told them what Mr. Liddy had told me, I think I would have been subject to disciplinary action, severe disciplinary action. So I say, I have never practiced criminal law. I do not know how people react to these situations. They carry these things in their mind, they cannot disclose it. This was unbearable to me.

Senator INOUE. If the ethics of your profession prevented you from disclosing the information imparted to you by Mr. Liddy, why did you discuss this with Mr. Mitchell?

Mr. MARDIAN. I made that a precondition to my taking his information in confidence.

Senator INOUE. Did you discuss this with Mr. Magruder?

Mr. MARDIAN. No, sir.

Senator INOUE. Or anyone else?

Mr. MARDIAN. I never discussed it with anyone else but Mr. Mitchell.

Senator INOUE. And was Mr. Mitchell precluded by some ethics to keep that to himself?

Mr. MARDIAN. Mr. Mitchell will have to speak for himself on that. I do not wish to pass judgment.

Senator INOUE. Were you given the formal title of counsel to the committee on June 17?

Mr. MARDIAN. I do not believe it is formal. I appear, I believe, on the pleadings as counsel to the committee.

Senator INOUE. At that time, it was your belief that you were personal counsel to Mr. Liddy?

Mr. MARDIAN. No, sir; and I so explained it to him. I was counsel for the committee and he was an employee of the committee. I told him that as an employee of the committee, he could speak to me in confidence, although he could not retain me as his personal attorney and that I would hold his confidence inviolate.

Senator INOUE. And even if this information had a potential of injuring your major client, the committee, you kept it to yourself?

Mr. MARDIAN. I did not keep it to myself; I told it to the head of the committee. That is the reason I insisted on that condition.

Senator INOUE. But it is your testimony that if this had been received 2 months ago, you would have arrested him?

Mr. MARDIAN. I would not have been in the position of being his attorney 2 months ago. I would have been Assistant Attorney General 2 months ago.

Senator INOUE. And you would have arrested him?

Mr. MARDIAN. I would have. I would have taken whatever procedures were necessary to see that he was brought to justice.

Senator INOUE. I thank you very much.

Thank you, Mr. Chairman.

Senator ERVIN. Senator Weicker.

Senator WEICKER. Mr. Mardian, yesterday in your testimony, you indicated that when you went to the Miami convention, you suggested to, I think, and you correct me if I am wrong, Mr. MacGregor and maybe others that you wanted to have a memorandum, or that you would be glad to write a memorandum setting forth your knowledge of this matter, and that you were subsequently ordered not to write such a memorandum. Now, if there is a different paraphrase of this, you tell me what it is.

Mr. MARDIAN. I think you are referring to a conversation I had with Mr. Mitchell prior to that time.

Senator WEICKER. Prior to the Miami convention?

Mr. MARDIAN. Yes; I suggested that memorandum to Mr. Mitchell.

Senator WEICKER. And then subsequently, am I correct, you were ordered not to prepare such a memorandum?

Mr. MARDIAN. Yes, sir.

Senator WEICKER. Who ordered you?

Mr. MARDIAN. Mr. Mitchell.

Senator WEICKER. Well, does that not seem a little bit strange, to go ahead and indicate that you would like to set down in writing your findings and then have the individual you suggest it to turn you down?

Mr. MARDIAN. I didn't think it—I didn't think the decision was a wise one on his part, and in retrospect, I think he would agree with me on that.

Senator WEICKER. Well, never mind what he thinks. I am talking about what you think. You obviously thought the situation serious enough so that you wanted to put everything in written form, is that correct?

Mr. MARDIAN. I thought that the memorandum should be prepared for his signature for the files to explain the situation as it then existed.

Senator WEICKER. Now, as I recall, you also talked to Mr. MacGregor at the Miami convention; is that correct?

Mr. MARDIAN. Yes, sir.

Senator WEICKER. And you indicated to Mr. MacGregor that matters of a serious nature had come to your attention and you felt he ought to hear about them?

Mr. MARDIAN. It came in the context, Senator, of his having made a series of statements regarding the lack of involvement of any member presently employed, as I recall, by the Committee To Re-Elect. I suggested to him that there were some serious—there was a serious exposure with respect to certain employees of the committee, he should be made aware of it, and hopefully, to prevent him from making further statements that might put him in a bad light subsequently.

Senator WEICKER. And he turned you down?

Mr. MARDIAN. He told me, as I best recall—he was in a hurry; he wanted to leave before I got in the room—that he had been assured

before he took the job that no one employed in the committee at that time had been involved; he accepted that, and he didn't want to hear any more about it, or words to that effect.

Senator WEICKER. And yet at that particular moment in time, you were indicating to him that such assurances that had been given to him just weren't fact?

Mr. MARDIAN. I think the very import of what I told him should have indicated that to him; yes, sir.

Senator WEICKER. At any subsequent time, did you again try to make contact with Mr. MacGregor, or was that it?

Mr. MARDIAN. Sir, I tried on numerous occasions prior to that time, and I think that was the last attempt.

Senator WEICKER. That was the last attempt you made to communicate with him your misgivings?

Mr. MARDIAN. By that time, I was pretty much out of Watergate as such. This was around August 20, 21. Whenever it was, the first opportunity I could see him down there.

Senator WEICKER. Mr. Mardian, there are three areas that I would like to handle and I will try to restrict my questioning on the first go-around. But specifically, they do relate to the commonly called Pentagon Papers and to the Kissinger tapes and to your handling of the Internal Security Division in these three areas.

I would like to cover some of the same ground that Senator Talmadge covered to try to get a more complete story on your flight to San Clemente and your receipt of what I refer to, what has been referred to as the Kissinger tapes.

As I understand it, in late September of 1971, you were contacted by Mr. William Sullivan on the matter that he had these tapes and he wanted to hand them over to somebody; is that correct?

Mr. MARDIAN. Late September?

Senator WEICKER. Of 1971.

Mr. MARDIAN. I think it was far earlier than that. It must have been June.

Senator WEICKER. June of 1971?

Mr. MARDIAN. That is my best recollection—June or July.

Senator WEICKER. Was it due to the fact that he felt he was on his way out and he had these tapes and he wanted to transmit them to some responsible individual?

Mr. MARDIAN. I tried to relate as best I can what he told me, that they were not in the ordinary channels of the Bureau, they were in his office safe, that his opinion was that he was going to be terminated pretty soon. He was concerned about what would happen to them if they fell into the possession of his successor.

Senator WEICKER. Now, at that time, did he also indicate to you that—what was he referring to? Was he referring to the logs?

Mr. MARDIAN. He was referring to logs of national security surveillances.

Senator WEICKER. That were in his possession?

Mr. MARDIAN. Yes, sir.

Senator WEICKER. Did he at that time indicate also to you as to who possessed the summaries of the logs?

Mr. MARDIAN. I don't recall the specific conversation, Senator. Because of the number of them, I wasn't sure at what time, whether he

delivered me the summaries or the logs, and as it now develops, according to Mr. Sullivan, they were logs and summaries and correspondence.

Senator WEICKER. In order to—all right.

Upon his initial communication with you, did you then go to the Attorney General?

Mr. MARDIAN. Yes.

Senator WEICKER. And ask for his recommendations on this matter?

Mr. MARDIAN. I didn't ask for recommendations, I don't think. I merely related to the Attorney General what Mr. Sullivan had told me.

Senator WEICKER. And did the Attorney General give you a response as to how to handle Mr. Sullivan's offer?

Mr. MARDIAN. No, sir.

Senator WEICKER. Why do you think Mr. Sullivan came to you with this offer?

Mr. MARDIAN. Mr. Sullivan was a friend of mine and I think he probably had—I am sure he had quicker access to me than anyone else in the Department.

Senator WEICKER. And do you feel it was because of his dislike of the Director that he didn't turn to his immediate superior, the Director of the FBI?

Mr. MARDIAN. Based upon what he told me, he was concerned about the motives of the Director.

Senator WEICKER. And what were those motives as he described them to you?

Mr. MARDIAN. My best recollection is that he thought that the Director might use, as I have said, these logs to maintain his position as Director.

Now, I don't know what Mr. Sullivan's recollection of it is, but that is my recollection.

Senator WEICKER. He didn't indicate to you as to why he felt that the Director could use these logs to maintain his position?

Mr. MARDIAN. I have given it to you the best I can, Senator.

Senator WEICKER. All right, let's proceed then with the subsequent events. You did not then go back to Mr. Sullivan prior to flying out to California to meet with the President to get any portion of the materials that he held?

Mr. MARDIAN. No, sir.

Senator WEICKER. In your meeting at San Clemente you met with the President on this matter specifically?

Mr. MARDIAN. Yes, sir.

Senator WEICKER. And what did you describe to the President as the situation?

Mr. MARDIAN. I believe I simply told him, in response to his question, what Mr. Sullivan told me.

Senator WEICKER. Did you tell the President that you had received no instructions from the Attorney General or was that discussed in any way?

Mr. MARDIAN. No, sir.

First, I told the Attorney General, and the next thing—I didn't hear from the Attorney General on it—the next thing I knew, and it was sometime later, the Attorney General at that time, as I recall, was at the American Bar Association convention in England—in London.

Senator WEICKER. What did the President order done?



Mr. MARDIAN. He instructed me to obtain the materials from Mr. Sullivan—deliver them to Mr. Ehrlichman.

Senator WEICKER. Did you know at that time, at the time of those instructions, that the material to be handed over to you by Mr. Sullivan included more than just the material held by Mr. Sullivan?

Mr. MARDIAN. I don't quite follow that.

Senator WEICKER. Let me be very specific I think both you and I know exactly what we are talking about.

Mr. MARDIAN. You have the advantage; I don't.

Senator WEICKER. Were the materials to be collected by Mr. Sullivan or some of the materials to be collected in the hands of Mr. Haldeman?

Mr. MARDIAN. No, sir.

Senator WEICKER. In the hands of Mr. Ehrlichman?

Mr. MARDIAN. No, sir.

Senator WEICKER. Mr. Haldeman, Mr. Ehrlichman, for example, had none of the summaries and none of the correspondence based on these tapes?

Mr. MARDIAN. The—we are getting into areas of procedure at the Department of Justice but I presume—

Senator WEICKER. No. Let me be very specific, Mr. Mardian. Was not the object of turning this task over to Mr. Sullivan to assure that all materials connected with these tapes collected by one man, Mr. Sullivan, to be turned over to you to be turned over to Mr. Ehrlichman?

Mr. MARDIAN. No, sir. I was given the obligation of checking with Dr. Kissinger and with Mr. Haldeman to insure that they had copies of their summaries, but they were never collected or delivered to me.

Senator WEICKER. Were they collected by Mr. Sullivan?

Mr. MARDIAN. No, sir.

Senator WEICKER. So the only thing, the only task, that was assigned to Mr. Sullivan was to hand over to you what he personally had; nothing else?

Mr. MARDIAN. That is right.

Senator WEICKER. You indicated there was correspondence based on these logs. Did Mr. Sullivan write himself?

Mr. MARDIAN. No; I don't recall any correspondence, and I didn't know there was correspondence in these two parcels.

Senator WEICKER. Mr. Mardian, I think if we go over the testimony that you have given to me here this morning, you indicated there were logs, there were summaries, and possibly correspondence based on those logs.

Mr. MARDIAN. Mr. Sullivan told me that there were logs, summaries, and correspondence.

Senator WEICKER. In his files?

Mr. MARDIAN. In his possession, yes.

Senator WEICKER. And that nothing turned over to you came from any other source except from his own personal files?

Mr. MARDIAN. Bureau files.

Senator WEICKER. Bureau files? Is that correct?

Mr. MARDIAN. Yes; if you would tell me what you are driving at Senator, maybe I could help you.

Senator WEICKER. I wish I had Mr. Sullivan here and I am sure the committee will have Mr. Sullivan here so he could in a firsthand way, and I think we will leave it in that fashion to describe what his orders were.

Let's move on to the—is there anything further? I don't want to leave this; I don't want you to speculate. I don't want hearsay information, I only want your firsthand testimony. What you are telling this committee is you returned to Mr. Sullivan and ordered him to turn over those materials in his possession relative to the Kissinger tapes?

Mr. MARDIAN. I didn't order him. I told him what my instructions were and he—

Senator WEICKER. On the authority of the President, is that correct?

Mr. MARDIAN. I told him that is where my instructions came from. I may not have. I don't know. I may have said the Attorney General, I am not sure. My recollection is that I told him that I talked to the President, and that those were my instructions.

Senator WEICKER. So that at that particular moment in time he had nothing further to do but empty out his drawers and give you the materials therein, is that right? You received those materials right then?

Mr. MARDIAN. No, sir.

Senator WEICKER. You did not?

Mr. MARDIAN. No, sir.

Senator WEICKER. When did you receive them?

Mr. MARDIAN. I don't recall; it was sometime later.

Senator WEICKER. Why the delay, Mr. Mardian?

Mr. MARDIAN. Well, he didn't have them with him. My conversation with him took place in my office.

Senator WEICKER. Well, by sometime later, in other words you are only indicating a matter of hours or are you indicating a matter of days or weeks?

Mr. MARDIAN. It may have been a day, it may have been 2 days; I don't know. It may have been a week. I am not—

Senator WEICKER. Obviously this was a matter of some urgency if, in fact, you had been put aboard a courier plane to fly out to California and given orders personally by the President. This is not something that is just left hanging. It was obviously a matter of considerable urgency to the President, wasn't it?

Mr. MARDIAN. The urgency, if there was any, is the President wanted to talk to me and if he was in San Clemente and I was in Washington and if a plane was leaving, I don't think he would have thought anything of having me get on a plane and get out there.

Senator WEICKER. So there wasn't anything particularly urgent about picking up these materials from Mr. Sullivan?

Mr. MARDIAN. I did not obtain any expressions of urgency. The only urgency was on the part of Mr. Sullivan.

Senator WEICKER. Did you think it rather strange that he should go the route of you to Mr. Ehrlichman rather than to have these materials handed over to the Director of the FBI?

Mr. MARDIAN. The purpose was to take them out of the custody of his office because of the concern he expressed with respect to the Director of the FBI.

Senator WEICKER. All right, then, Mr. Mardian, the concern then just wasn't Mr. Sullivan's concern. It was also the concern of yourself and the concern of the President; is that correct?

Mr. MARDIAN. I can't say that I was concerned. I didn't know—I didn't want to assess the dispute between Mr. Sullivan and Mr. Hoover.

Senator WEICKER. But the dispute was assessed by the President when, in fact, the order was to turn the tapes over to you and then to give them to Mr. Ehrlichman, was it not?

Mr. MARDIAN. I believe Mr. Sullivan made an assessment and I would say the President made a judgment.

Senator WEICKER. Made a judgment based on Mr. Sullivan's assessment?

Mr. MARDIAN. Yes, sir.

Senator WEICKER. Can you try to recollect again as to the period of time that elapsed between your request of Mr. Sullivan and when you received the materials from him as ordered by the President?

Mr. MARDIAN. I can't, Senator.

Senator WEICKER. You made some reference to the fact that you contacted certain individuals to try to get materials relative to the same set of tapes or am I unclear on that?

Mr. MARDIAN. There was an index of summaries, in other words, a list of all of the summaries that had been sent to Dr. Kissinger and the President.

Senator WEICKER. They are the only ones that received summaries.

Mr. MARDIAN. I am not sure. When I was questioned about this I think the Attorney General received some of them but not all of them.

Senator WEICKER. Right, right.

Mr. MARDIAN. The President wanted to make sure that each of these people had in their possession the summaries that had been sent to them by the FBI.

Senator WEICKER. Did you have any—do you have any recollection of Mr. Haldeman, Mr. Ehrlichman receiving summaries?

Mr. MARDIAN. Not Mr. Ehrlichman. Mr. Haldeman held them for the President. And he requested—I gave—I believe I gave Mr. Haldeman a list of the documents which he was to—supposed to have received for him to check against what he had in his possession. I believe I went to see—I know I went to see Dr. Kissinger, and General Haig was present, and they checked their files at that time.

Senator WEICKER. So this was not really a minor matter. This was a roundup of trying to pull together all aspects of what we call the Kissinger tapes.

Would that not be a fair—

Mr. MARDIAN. It wasn't a roundup of Dr. Kissinger's tapes as I recall but to find out if he had all of his summaries; that is all. I didn't collect anything. I simply gave Dr. Kissinger or General Haig a copy of the summaries, a list of the summaries that—by dates—that they were to have been received, and I believe General Haig, while Dr. Kissinger and I were in his office, went out to check to see if they had intact everything that they were supposed to have. And that was the end of my discussion with them.

Senator WEICKER. When was it then that the matter was closed out as between yourself and Mr. Sullivan?

Mr. MARDIAN. When he delivered them; when he delivered what he had to my office.

Senator WEICKER. And then you delivered that to Mr. Ehrlichman?

Mr. MARDIAN. Yes, sir.

Senator WEICKER. All right.

Now, if we can move just for a minute over to the Pentagon Papers, I wonder if you might not consider very carefully a statement you

made earlier relative to your contacts with Mr. Liddy. I am not talking about your contact with Mr. Liddy at the Committee To Re-Elect the President but your contacts with Mr. Liddy in your capacity as the Assistant Attorney General, the head of the Internal Security Division. You recited one instance where on some—was it treaty, agreement, or negotiation—you had contact with Mr. Liddy.

Mr. MARDIAN. Yes, sir.

Senator WEICKER. Would you please try to recollect as to whether or not you had any meetings with Mr. Liddy relative to the Pentagon Papers investigation?

Mr. MARDIAN. I believe Mr. Liddy came to my office with Mr. Young on one occasion, it may have been more but that is all that I can recall; they were acting as liaison with the State Department, Defense Department, the Justice Department. The White House was very concerned about the Pentagon Papers case.

Senator WEICKER. I am not—and I do not mean to impute in any way knowledge by you of any illegal activities of Mr. Liddy. I am talking about what you consider or what anybody else would consider at that time perfectly legitimate activity by Mr. Liddy. I am not trying to bring forth knowledge now in our possession to impute that to you at that moment in time. But I want to be quite precise on the fact as to your meetings with Mr. Liddy and as to the number of those meetings and what they concerned.

Now, you indicate now there might have been one meeting. Are you sure there might not have been more than one meeting in his capacity as liaison on the Pentagon Papers case?

Mr. MARDIAN. I cannot—he may have been over there more than once but I know that he was making the rounds of State, Defense, and Justice. At that time we were working, we were under the gun, the time was short, we had deadlines in filing pleadings. I believe we went from the district court to the circuit court, to the district court, to the circuit court, to the Supreme Court in something less than 3 weeks, and in my office were the heads of the National Security Agency, Admiral Gayler and I worked with—and other similar people; I was working with Bill Macomber from State, Fred Buzhardt from Defense and we had all kinds of people going through that office. If Mr. Liddy was there during that turmoil—the Justice Department was the headquarters for the operation.

Senator WEICKER. I do not mean to be unfair to you; it is my knowledge that there were many staff meetings, just of the nature that you describe in your office and that Mr. Liddy was present at those meetings.

Mr. MARDIAN. Well, I am not trying to be evasive; I just do not recall him—I do not recall him at any of those staff meetings, frankly. The occasion that he came to my office was with Fred Young to get a report on how we were doing in the Pentagon Papers case; that is as I recall it.

Senator WEICKER. I believe your reference is to Dave Young, is that correct?

Mr. MARDIAN. Yes, sir. He was on Dr. Kissinger's staff.

Senator WEICKER. You say you were under the gun. Can you drop back in time and indicate as to whether or not you received any instructions personally from the President on the matter of the Pentagon Papers case?

Mr. MARDIAN. I cannot—I should recall if there was a communication between the President and me, but I was made aware of the extreme concern of the President. I recall the meeting in San Clemente, most of that meeting concerned his expressions to me about the fact that his very ability to govern was threatened, the peace of the world was threatened. He talked about SALT, he said SALT; the Strategic Arms Limitation Treaty was the most important thing that faced this Nation if we were to preserve the peace of the world, and that information from the National Security Council relating to the American position at SALT had been in the possession of the Russians before a particular meeting and it was in that context he expressed a very grave concern about not only SALT but about his ability to govern if he could not maintain the confidentiality of the White House.

Senator WEICKER. Is this the same San Clemente meeting where the roundup of the Kissinger tapes were discussed?

Mr. MARDIAN. That is the only one.

Senator WEICKER. Now, insofar as the pursuit of the Pentagon Papers case, was this something that there was continual communication between the White House and your office on?

Mr. MARDIAN. No, we finally worked out a staff arrangement between State, Defense, and Justice. We were, of course, prosecuting the case, but our two constituent clients were the State Department and the Defense Department.

Senator WEICKER. And do you know whether or not memos were regularly sent over your signature on the Pentagon Papers case to both Mr. Haldeman and Mr. Krogh?

Mr. MARDIAN. I sent a daily memo to the Attorney General. It was prepared for my signature and I signed it and if copies went to them, I would not think that unusual.

Senator WEICKER. But no reports either from you or in the way of FBI memos were sent over your signature to Mr. Krogh?

Mr. MARDIAN. Not to my knowledge, I used to sign a lot of papers, but I do not recall sending FBI memos over. If one was requested, I think I probably would have complied; maybe not with revelations of today. I might have sent them to the Attorney General and asked him to send them to the White House.

Senator WEICKER. Mr. Mardian—or, Mr. Chairman, I do not want to take up further time of the committee. It is my intention to question Mr. Mardian on other matters relative to the Internal Security Division under his leadership. At this time, I will pass to other members of the committee.

Senator ERVIN. Well, Senator, I would suggest that it would be just as good at this time as any other time.

Senator WEICKER. I believe Senator Montoya is prepared to question. I am perfectly willing to wait, Mr. Chairman.

Senator ERVIN. Senator Montoya.

Senator MONTOYA. Thank you, Mr. Chairman.

Mr. Mardian, going back to the period right after June 17 in California, I believe you testified that you had, on three occasions, talked to Mr. Magruder about Watergate and the possible involvement here in Washington with respect to the personnel of CRP. Now, one of the conferences that you had with Mr. Magruder was on the way to the airport where Mr. Mitchell, Mr. Magruder, and Mr. LaRue were going to attend a conference. That is correct, is it not?

Mr. MARDIAN. I am awfully sorry, Senator. I did not follow your prefatory statement.

Senator MONTOYA. I was referring to the briefings or conversations that you had with Mr. Magruder during your trip from one hotel to the Airporter Hotel where Mr. Mitchell and some of you were going to attend some meetings.

Mr. MARDIAN. Yes, sir.

Senator MONTOYA. And it was on that trip that Mr. Magruder started telling you about the Watergate and some of the ramifications, is that correct?

Mr. MARDIAN. No, sir.

Senator MONTOYA. At what meeting did Mr. Magruder first broach the subject of possible involvement to you?

Mr. MARDIAN. The first information he gave me was in—and I am not sure it was a banquet room, but it was a room next to the meeting room where the political meeting was being held.

Senator MONTOYA. I believe that you stated in your interview with the committee, the secret interview, that one of these conferences took place with Mr. Magruder while you were in transit to the Airporter Hotel.

Mr. MARDIAN. The only thing, as I recall, that he said to me was he had a slight PR problem.

Senator MONTOYA. And you did not go into it any deeper?

Mr. MARDIAN. I tried to.

Senator MONTOYA. When did you?

Mr. MARDIAN. He indicated, I think, by gesture that he could not discuss the matter further in the presence of the national committee-man from California, who was in the car with us.

Senator MONTOYA. That is what you stated yesterday.

Mr. MARDIAN. Yes.

Senator MONTOYA. Now, then, you went into the hotel?

Mr. MARDIAN. Yes, sir.

Senator MONTOYA. And there you indicated you had a briefing from Mr. Magruder?

Mr. MARDIAN. Yes, sir.

Senator MONTOYA. Now, what kind of a briefing did you receive from him?

Mr. MARDIAN. I think I related—do you want me to repeat what I said yesterday? It was quite a long briefing and I would have to look at my notes.

Senator MONTOYA. Well, let me just ask you some questions.

Mr. MARDIAN. Yes, sir.

Senator MONTOYA. Did he relate to you in that briefing about the budget that had been approved for Mr. Liddy?

Mr. MARDIAN. No, sir: I do not think so.

Senator MONTOYA. Did he discuss the employment of Mr. Liddy?

Mr. MARDIAN. To the extent that—

Senator MONTOYA. With respect to Watergate?

Mr. MARDIAN. Not with respect to Watergate.

Senator MONTOYA. Did he discuss with you the intelligence assignment of Mr. Liddy?

Mr. MARDIAN. No; he did not describe it as an intelligence assignment at that time.

Senator MONTOYA. How did he describe it?

Mr. MARDIAN. As I recall, it was—he was in charge of dirty tricks and black advance. He either told me dirty tricks at that time and black advance later, or both of them.

Senator MONTROYA. Now, did you as an inquiring lawyer, ask him to amplify that particular phrase or phrases?

Mr. MARDIAN. I do not know at that time. I may have.

Senator MONTROYA. Well, did he discuss any more details?

Mr. MARDIAN. Well, to the best of my recollection, he indicated that he should have suspected that Mr. Liddy would do something like that.

Senator MONTROYA. Then you left the hotel and went back to the Beverly Hills Hotel?

Mr. MARDIAN. Yes, sir.

Senator MONTROYA. And on this trip, do I understand that you were accompanied by Mr. Mitchell, Mr. LaRue—that is about all?

Mr. MARDIAN. Mr. Magruder.

Senator MONTROYA. And Mr. Magruder?

Mr. MARDIAN. Yes, sir.

Senator MONTROYA. And did you on your way to the Beverly Hills Hotel discuss any phase of the break-in?

Mr. MARDIAN. As I said, I am not sure. We may have. We had not had an opportunity, to my knowledge, to talk—I had not had an opportunity to talk to Mr. Mitchell since I had the briefing. Mr. Mitchell was in perpetual motion from the time we arrived there at 11 o'clock or a little before until we left, which I presume was some time after 2 o'clock.

Senator MONTROYA. Well, was it not the natural thing for you to do to discuss with Mr. Mitchell just exactly what you had been discussing with Mr. Magruder?

Mr. MARDIAN. Yes, I said it would be very natural, except we were in a car with a strange driver.

Senator MONTROYA. Did the car have a window that could be closed from the front?

Mr. MARDIAN. Not to my knowledge.

Senator MONTROYA. Then you went to the Beverly Hills Hotel, and I understand that immediately you did have a briefing on the whole matter?

Mr. MARDIAN. Yes, that is my recollection.

Senator MONTROYA. And it was there that you started discussing the public relations question which Mr. Magruder had first broached to you and tried to bring about some kind of a press statement?

Mr. MARDIAN. No, we—Mr. Magruder's reference to a slight PR problem was a very facetious statement. He was referring to Watergate and the break-in and the burglary and the arrest.

Senator MONTROYA. But what did you discuss at the meeting at the Beverly Hills Hotel when Mr. Mitchell was present?

Mr. MARDIAN. We did discuss there a PR response to the problem, but that is not what Mr. Magruder was referring to.

Senator MONTROYA. All right, in what context did you have those discussions? What specifics came out?

Mr. MARDIAN. What specifics? I cannot recall the specifics of the discussion.

Senator MONTTOYA. Well, you must have, because you subsequently tried to advise Mr. Mitchell and the others as to the contents of the press statement. You must have had all the facts by that time.

Mr. MARDIAN. I had all the facts that Mr. Liddy had given me, yes, sir—that Mr. Magruder had obtained from Mr. Liddy.

Senator MONTTOYA. You mean to tell me that you did not have any facts and still you were trying to advise Mr. Mitchell as to the contents of a press statement?

Mr. MARDIAN. Well, I had quite a few—we had quite a few facts at that time.

Senator MONTTOYA. Well, why do you call it a briefing, then, if there was no briefing?

Mr. MARDIAN. I am not following you, maybe, sir.

Senator MONTTOYA. Why did you call the meeting at the Beverly Hills Hotel a briefing if no facts came out at that meeting?

Mr. MARDIAN. I think I related all the facts that came out. Mr. Magruder briefed me on his telephone conversation with Mr. Liddy earlier that morning.

Senator MONTTOYA. And as a matter of fact, you had some telephone conversations with Mr. Liddy, did you not?

Mr. MARDIAN. Not at that time.

Senator MONTTOYA. When? Was it Sunday?

Mr. MARDIAN. No; I had one with Mr. Liddy, I believe—well, in that afternoon. But the only subject—Mr. Liddy, as I said, would not talk on the phone. The only thing he wanted to convey to me was an urgent desire for me to return to Washington.

Senator MONTTOYA. Then you testified that you received a draft of a press statement that you did not agree with.

Mr. MARDIAN. Yes, sir.

Senator MONTTOYA. And that you had made some changes.

Mr. MARDIAN. Yes, sir.

Senator MONTTOYA. Now, what changes—what was the original draft and what changes did you make?

Mr. MARDIAN. I don't recall.

Senator MONTTOYA. What was the tenor?

Mr. MARDIAN. The tenor of the statement was to the effect that the break-in was unauthorized, that Mr. McCord was the head of McCord Associates, that he had other clients, and that the committee did not condone that type of conduct and it certainly had no place in American politics, or words to that effect.

Senator MONTTOYA. Well, with what part of that statement did you disagree?

Mr. MARDIAN. I disagreed with that portion of it that indicated that McCord Associates might have been in the employ of another client when I was aware of the fact that Mr. McCord was devoting his full time to the affairs of the Committee To Re-Elect the President. And I didn't feel that Mr. Mitchell should sign or have that statement issued under his name when we had facts to the contrary.

Senator MONTTOYA. You had facts from Mr. McCord and you had other facts from the conversations that you had with Mr. Liddy?

Mr. MARDIAN. We had no facts from Mr. McCord at that time.

Senator MONTTOYA. I mean, not McCord—Magruder; I am sorry. From Mr. Magruder.



Mr. MARDIAN. What Mr. Magruder told me was of such a nature that I didn't feel that Mr. Mitchell should sign that press release in the form it was in.

Senator MONTROYA. So in view of the factual situation that had been developed up to that time and what you knew Mr. Mitchell was aware of, is it your opinion that this was a dishonest press statement? Let's put it another way: Do you feel that it was inaccurate?

Mr. MARDIAN. It certainly was an overstatement based upon the facts that were available, I felt, to Mr. Mitchell.

Senator MONTROYA. Now, you indicated also that you were appointed counsel on that particular day for the CRP by Mr. Mitchell?

Mr. MARDIAN. I think he told me he wanted me to take the legal responsibility for the repercussions that were sure to come from Watergate; yes, sir.

Senator MONTROYA. Was it for the CRP or for the Watergate? For the Watergate episode?

Mr. MARDIAN. I think it was limited to the—on behalf of the CRP for the Watergate episode, sir.

Senator MONTROYA. Well, you knew at that time that Mr. Liddy was the counsel. Were you going to take over his job?

Mr. MARDIAN. He was not counsel at that time.

Senator MONTROYA. Well, he was counsel and also counsel to the finance committee, was he not?

Mr. MARDIAN. He was counsel for the finance committee, I believe, at that time; yes, sir.

Senator MONTROYA. Now, you had been engaged in the Department of Justice in the capacity as Assistant Attorney General when the Ellsberg investigation was launched; is that correct?

Mr. MARDIAN. Yes, sir.

Senator MONTROYA. And you knew after your conference with Mr. Liddy that he was involved in the Ellsberg break-in with Mr. Hunt, so he told you. Is that correct?

Mr. MARDIAN. Yes, sir.

Senator MONTROYA. And in spite of your involvement as a responsible official in the Department of Justice, you agreed to take over as counsel for Mr. Liddy in a connecting link of the dirty tricks conspiracies that he had launched?

Mr. MARDIAN. I did not undertake to represent Mr. Liddy. I told him I could not represent him in his personal capacity.

Senator MONTROYA. Well, didn't you indicate, and you so argued before Judge Sirica, that you had talked to Mr. Liddy in a confidential capacity as attorney and client?

Mr. MARDIAN. Yes, sir.

Senator MONTROYA. Well, doesn't that indicate that you had assumed employment by Mr. Liddy or a relationship which was inconsistent with your previous role at the Department of Justice with respect to the Ellsberg case?

Mr. MARDIAN. Senator, the biggest surprise I ever received in my life, as I think I told you, was the disclosure he made to me after I had told him he could talk to me in confidence.

Senator MONTROYA. Then wasn't your appointment as counsel and your acceptance of this assignment inconsistent with the disavowals that were going out that the CRP nor any of its personnel had any complicity in the Watergate affair? Wasn't that inconsistent?

Mr. MARDIAN. Senator, I doubt seriously if an attorney for a client can disavow what his client says when he has received information and the only basis for knowing that the statement is not true is information he obtained in a fiduciary capacity.

Senator MONTOYA. Well, the point I am trying to make, Mr. Mardian, is that you knew more about the involvement of these people than what you have told this committee, did you not?

Mr. MARDIAN. I knew more?

Senator MONTOYA. Yes.

Mr. MARDIAN. I have tried to tell this committee as candidly and as frankly as I can everything I know.

Senator MONTOYA. Well, did you know of any involvement as a result of your conferences with Mr. Liddy, of any involvement on the part of any personnel at the White House?

Mr. MARDIAN. No; other than what I have stated.

Senator MONTOYA. With respect to Mr. Strachan, with respect to Mr. Ehrlichman or Mr. Haldeman?

Mr. MARDIAN. Mr. Strachan, Mr. Ehrlichman, and Mr. Haldeman were not mentioned, sir.

Senator MONTOYA. You inquired for Mr. Liddy as to the possibility that someone in the burglary group had had it in mind that they would be arrested to embarrass the Committee To Re-Elect the President. You testified to that yesterday?

Mr. MARDIAN. I raised that as a possibility.

Senator MONTOYA. Yes. Was this the source of some of the planted stories that were circulated in the press, not as fact but as possibilities with respect to double agents?

Mr. MARDIAN. No, I think I learned that in the press. The press was calling it such a bungled job, the descriptions of it at the time were almost comical.

Senator MONTOYA. Now, going to Miss Dita Beard; I believe Mr. Liddy told you that he was involved in that escapade, if you can call it that?

Mr. MARDIAN. Yes, sir.

Senator MONTOYA. And Mr. Hunt also had a prominent part?

Mr. MARDIAN. Yes, sir. He said the group, and I presume that included Mr. Hunt.

Senator MONTOYA. There has been previous testimony here that Mr. Hunt was assigned to visit Denver and talk to Miss Beard. Did Mr. Liddy tell you this?

Mr. MARDIAN. I don't recall that. Mr. LaRue recalls it. We both have—he recalls a lot. He recalls some things I don't recall and I recall some things I guess he doesn't recall. My recollection of what he said was: "We were the ones responsible for getting Dita Beard out of town."

Senator MONTOYA. And he also told you that he was a member of the Plumbers group?

Mr. MARDIAN. The word "plumbers" never came up and I don't—

Senator MONTOYA. In that context did he tell you that he was connected with this group?

Mr. MARDIAN. He told me that their group had been operating for some considerable period of time, and he did not characterize the group as Plumbers.

Senator MONTTOYA. Then you knew about Mr. Liddy's involvement after you talked to Mr. Liddy; you knew about Mr. Hunt's involvement; you knew that Mr. Liddy had been working for the Government, and subsequently with the CRP; you also knew that Mr. Hunt was also working for the White House about that time, did you not?

Mr. MARDIAN. Yes, sir.

Senator MONTTOYA. And you knew—you were the Assistant Attorney General and knew that the Department of Justice was investigating the ITT matter, and the White House was also interested, so the press statements indicated, in trying to unravel the possible Government involvement in the ITT affair.

Now did you, after you heard from Mr. Liddy, after he reported all these details to you, tell anyone in authority about such involvement on the part of Mr. Liddy and Mr. Hunt?

Mr. MARDIAN. In ITT?

Senator MONTTOYA. No, in the Dita Beard affair.

Mr. MARDIAN. I reported, as best I could, everything I could to Mr. Mitchell.

Senator MONTTOYA. Did you report it to anyone in authority at the Department of Justice?

Mr. MARDIAN. No, sir.

Senator MONTTOYA. Don't you feel—didn't you feel that it was your duty to do so?

Mr. MARDIAN. Sir, I was not in the Department of Justice at that time.

Senator MONTTOYA. But you had been there as an official?

Mr. MARDIAN. I was a private person; I was representing the committee and I think I explained as fully as I can my relationship at the time I talked to Mr. Liddy.

Senator MONTTOYA. With respect to the budget discussions with Mr. Mitchell about the \$250,000 budget plan, you indicated that this discussion took place in the presence of Mr. Magruder.

Were there any other discussions about this particular budget in the presence of Mr. Mitchell or Mr. LaRue or Mr. Dean or others?

Mr. MARDIAN. I don't recall, sir.

Senator MONTTOYA. Could it have been possible then that such discussions had taken place?

Mr. MARDIAN. It is possible; yes, sir.

Senator MONTTOYA. When did you first learn of the \$250,000 Liddy budget?

Mr. MARDIAN. As I believe I have testified, I am not positive. To the best of my recollection, and my recollection even changes while I am here, I think it was in the confrontation that I had with Mr. Magruder in Mr. Mitchell's office. It could have been in California. It could have been between that time and that meeting; but as of right now I would say my best recollection is it was immediately after we came back, and it had to do with Mr. Magruder's statement to me that he had disbursed \$40,000 to Mr. Liddy. And my response, and Mr. Mitchell's response, elicited the statement: "But it is only \$40,000 of the \$250,000 budget."

Senator MONTTOYA. What day was that, would you say?

Mr. MARDIAN. It could have been the 23d. I believe—23d.

Senator MONTTOYA. Then going back to the meeting of June 20 at Mr. LaRue's apartment, it was there that you had the debriefing of Mr. Liddy with respect to his involvement in this affair?

Mr. MARDIAN. I have stated my best recollection is that the meeting was the 21st; it could possibly have been on the 20th.

Senator MONTTOYA. Well, everyone has testified that it did occur on the 20th, and we are assuming that that was the date.

Mr. MARDIAN. Well, I am assuming it was the 21st, Senator.

Senator MONTTOYA. All right.

Now, assuming that it was the 20th, as three other persons have testified, did you—what time did this debriefing occur?

Mr. MARDIAN. I have said I cannot recall. Based upon my records I speculated that it was in the morning.

Senator MONTTOYA. All right.

Then did you on the same day proceed to brief Mr. Mitchell?

Mr. MARDIAN. Yes, sir.

Senator MONTTOYA. And who accompanied you on this briefing?

Mr. MARDIAN. Mr. LaRue.

Senator MONTTOYA. Who else?

Mr. MARDIAN. That is all.

Senator MONTTOYA. And at what time in the afternoon did you brief Mr. Mitchell?

Mr. MARDIAN. I don't recall, sir. I think I have testified that I don't recall exactly when I met with Mr. Liddy. My best recollection is that I would have told Mr. Mitchell as soon as I could have obtained access to him.

Senator MONTTOYA. Did you know that Mr. Mitchell, shortly after this meeting, had called the President of the United States? About what, we don't know.

Mr. MARDIAN. I believe, Senator, that Mr. Mitchell's records show a meeting on the 21st of some duration, in the afternoon, which would have coincided with my recollection, and if he made a call to the President after that, I am not aware of it.

Senator MONTTOYA. Now, committee counsel asked you in your appearance before the special committee what your reaction was to the stories Mr. Mitchell was telling about this time that no one in the committee was involved in this, and you stated to the committee counsel as follows, or in this tenor, that your personal reaction was anguish and torment to the statements being made at that time by Mr. Mitchell.

What did you mean by that?

Mr. MARDIAN. I don't know that I used those adjectives. It would describe my feelings, sir.

Senator MONTTOYA. Can you amplify?

Mr. MARDIAN. I think those adjectives describe my feelings.

Senator MONTTOYA. What statements gave you the torment; what statements that Mr. Mitchell was making?

Mr. MARDIAN. Senator, lawyers are not supposed to make judgments, pass judgments, they are supposed to represent their clients and wait until a court makes that judgment. I, as most lawyers, am human. I felt that I knew that what was going out was not as I had surmised and that was difficult for me.

Senator MONTTOYA. The reason I have been asking you to amplify these statements is because they might—your possible answers might

shed some light in trying to resolve the contradictory nature of testimony that has been adduced with respect to certain substantive facts here by the same people who were at meetings with you, Mr. Mardian; and the committee is faced with the choice of selecting your testimony as against the testimony of Mr. Mitchell, Mr. Dean, Mr. Magruder, and Mr. LaRue with respect to some of these matters of substance; and without amplification we cannot reach judgment, so we are at an impasse with respect to this testimony unless we want to resort to the weight of testimony theory.

Now, I have asked you, as sincerely as I could, questions which might amplify your conclusions with respect to some of these matters, and I am sorry that you have not given us more detail but I wish to thank you for your patience in listening to my questions.

Mr. MARDIAN. Thank you, sir.

Senator MONTROYA. Thank you, Mr. Chairman.

Senator ERVIN. We have two votes in the Senate at noon, so I presume that we cannot finish with this witness before that time.

The committee will stand in recess until 2 o'clock.

[Whereupon, at 11:55 a.m., the hearing was recessed, to reconvene at 2 p.m. this same day.]

#### AFTERNOON SESSION, FRIDAY, JULY 20, 1973

Senator ERVIN. The committee will come to order.

Mr. Mardian, you testified in response to a question by Senator Gurney that you did not believe something that Liddy said in the conversation you had with him, the first conversation you had, as I understand it.

Mr. MARDIAN. Yes, sir.

Senator ERVIN. I was sort of uncertain in my own mind of what it was you said you did not believe he told you.

Mr. MARDIAN. I believe that it was in response to whether I believed the President of the United States had authorized him to break into the Watergate.

Senator ERVIN. Did Liddy ever claim that to you?

Mr. MARDIAN. I believe I testified that he did not use the President's name.

Senator ERVIN. Yes.

Mr. MARDIAN. But he meant to clearly imply that to me.

Senator ERVIN. Well, what did he say that gave rise to that implication, as near as you can recall it?

Mr. MARDIAN. Senator, I have tried as desperately as I can with committee staff to recount the conversation, and it was with some degree of caution that I tried to testify; I was testifying as to my recollection of what impression he made on me or attempted to convey to me, and that was what he—that was the implication of the impression.

Senator ERVIN. But you do remember it was not an express charge that the President of the United States had authorized this?

Mr. MARDIAN. As I said—

Senator ERVIN. In other words, it was an implication rather you drew from something he said rather than an express statement on his part?

Mr. MARDIAN. He may have said the President. I cannot recall it. That was what he clearly intended to imply to me, sir.

Senator ERVIN. Yes. And you did not believe that but you do not know what Liddy believed, do you?

Mr. MARDIAN. No, sir.

Senator ERVIN. I understood you to testify that you did not have a chance to inform Mr. MacGregor of what you knew about these matters until the Republican Convention.

Mr. MARDIAN. Yes, sir.

Senator ERVIN. Now, when did the Republican Convention meet?

Mr. MARDIAN. August 12.

Senator ERVIN. August. I am informed, and you can correct me if I am wrong, that your diary indicates that you met with Mr. MacGregor on the following occasions: July 3, 1972, at 1:45 p.m.; 2:30 p.m., political coordination with MacGregor, third and fourth conference room; 5 p.m., MacGregor; July 12, 1972, 4 p.m., MacGregor; July 13, 1972, tentative meeting with MacGregor, whatever that could be. July 24, 1972, 8:45 a.m., 4 p.m., 5 p.m., MacGregor in each instance. Can you explain this to the committee?

Mr. MARDIAN. Yes; I think Mr. MacGregor's records would show that nearly all of those were canceled, sir. I may have met with him on July 3, I believe, but that was not—yes, that was not alone, as I recall. It was—he had everybody in, a lot of people in, to talk to right after he came over to the committee. I think his records would be the best evidence. I tried to make appointments, made appointments, and more often than not they were canceled.

Senator ERVIN. In other words, your diary records appointments which were made but which were not necessarily kept; is that what you are telling us?

Mr. MARDIAN. Yes, Mr. Chairman. My occasion on talking with Mr. MacGregor on the occasion I did was one of insistence because, as I recall, of a press release that he had issued.

Senator ERVIN. Do you agree with me that of all inhabitants of the universe, the one best qualified to testify of whether the President did or did not know anything about the Watergate affair is the President himself?

Mr. MARDIAN. I believe that is a fair statement, sir.

Senator ERVIN. Senator Talmadge, do you have any other questions?

Senator TALMADGE. No further questions, Mr. Chairman.

Senator ERVIN. Senator Weicker.

Senator WEICKER. Now, Mr. Mardian, I would like to read to you, if I might, and have your comment on, the opening statement of Mr. Dean, where he states:

The Watergate matter was an inevitable outgrowth of a climate of excessive concern over the political impact of demonstrators, an excessive concern over leaks, an insatiable appetite for political intelligence, all coupled with a do-it-yourself White House staff regardless of the law.

Would you care to comment on that in terms of your own experience, both at the Internal Security Division and the Committee To Re-Elect the President?

Mr. MARDIAN. I cannot really speak for John Dean.

Senator WEICKER. No, I am just asking you to speak for yourself. Do you consider that to be factual or would you phrase it another way?

Mr. MARDIAN. Would you mind reading it. There were several—  
Senator WEICKER. Sure.

The Watergate matter was an inevitable outgrowth of a climate of excessive concern over the political impact of demonstrators, excessive concern over leaks, an insatiable appetite for political intelligence, all coupled with a do-it-yourself White House staff regardless of the law.

Mr. MARDIAN. Pardon me, please. [Conferring with counsel.]

I would say this: That there was an extreme concern in the Government with respect to leaks, certainly out of the White House. There was a grave concern over the demonstrations, and apparently there was a do-it-yourself program going on at the White House as disclosed by these hearings.

Senator WEICKER. Well, we certainly know that a political intelligence operation was going on insofar as the Committee To Re-Elect the President; that is true, is it not?

Mr. MARDIAN. Apparently.

Senator WEICKER. Well, I mean—not “apparently.” I would ask you to be a little more specific than that. I mean, you investigated this political intelligence-gathering operation, did you not?

Mr. MARDIAN. The political intelligence gathering as such?

Senator WEICKER. Well, in that—would we place the Watergate break-in into that category?

Mr. MARDIAN. Yes, if you put it in that category, I was aware of the Watergate break-in.

Senator WEICKER. And that certainly was a political intelligence-gathering operation, was it not?

Mr. MARDIAN. Yes, sir.

Senator WEICKER. And insofar as the leaks are concerned, you had personal concern or personal experience with the matter of the Pentagon Papers, did you not?

Mr. MARDIAN. Yes, sir.

Senator WEICKER. And the Kissinger tapes?

Mr. MARDIAN. Yes, sir.

Senator WEICKER. So that brings us really down, I suppose, to the area of demonstrators, and this is what I would like to relate to this afternoon a few minutes.

You were sent over to head up the Internal Security Division of the Justice Department, and might I ask who chose you for that position?

Mr. MARDIAN. I presume the Attorney General of the United States.

Senator WEICKER. And in choosing you for that position, did he lay any emphasis on you insofar as putting a halt to the demonstrations and making this a prime concern of the Internal Security Division?

Mr. MARDIAN. No, sir. The problem of political demonstrations was not handled in my office. There was a team that had been in existence prior to this administration. It involved a group of people from the Mayor's office, from the District Police Department, the Justice Department, the U.S. attorney's representatives were there, the National Guard representative comprised this unit, and they had a control room, one in the Mayor's office. They had one in the Department of Justice; it was set up and was not under Internal Security but it was—as I recall, the control room at Justice was under the jurisdiction of the Deputy Attorney General. The one, a similar control room in the Mayor's office, was under the jurisdiction of the Mayor and his people. But they had representatives from all of these agencies.

Senator WEICKER. But of course, your particular division related to the United States, not just to the District of Columbia; is that correct?

Mr. MARDIAN. My division with reference to civil disorder was for the purpose of providing information in the event a demand was made, as is constitutionally provided by a Governor of a State, under article IV of the Constitution, the U.S. Government guarantees to each State a sovereign form of government and guarantees against the overthrow of any State government by civil insurrection.

Now, I don't recall the numbers to date but I think in the history of the United States some 18 demands for assistance come from Governors. The Attorney General of the United States has the responsibility of advising the President as to whether or not the state of insurrection is such that the Federal Government under its obligation under Article IV of the Constitution should respond, and that requires an independent judgment on the part of the President of the United States, and the President of the United States has exercised that judgment on those 18 occasions and I think in half of the cases he has turned the Governors down.

But in order to make that judgment the President has to have that type of information, and to that extent as it relates to the potential for civil disorder, the Internal Security Division is the repository of that information.

Senator WEICKER. I am not so sure we are on the same track here, Mr. Mardian. Your division was just not an intelligence-gathering division, it also became the principal litigating division of the Justice Department.

Mr. MARDIAN. I put it in reverse, principally our job is a prosecutive function.

Senator WEICKER. Right.

Now, why do you believe that the personnel in Division 5, your Division 5, of the Federal Bureau of Investigation—does that ring a bell?

Mr. MARDIAN. I used to get "5" and "6" mixed up. Crimes, I think is 6, and 5 is domestic intelligence; is that right?

Senator WEICKER. Five is domestic intelligence under the direction of Mr. William Sullivan.

Division 5 under William Sullivan, is that correct?

Mr. MARDIAN. Not when I was in the Department.

Senator WEICKER. Who was the head of Division 5?

Mr. MARDIAN. Charles Brennan, and then later Edward Miller.

Senator WEICKER. Division 5—did you work with Division 5 of the FBI?

Mr. MARDIAN. I worked with most all the divisions.

Senator WEICKER. Well, now, Division 5, or the personnel at Division 5, including Mr. Sullivan, who apparently is under the misapprehension that he was the head of Division 5, and Mr. Brennan was his assistant—

Mr. MARDIAN. That was before I went to the Department.

Senator WEICKER [continuing]. Indicated that they considered your arrival at the Internal Security Division to be a breath of fresh air; a breath of fresh air in that their division was almost defunct, so far as their division was concerned, previous to your arrival.

Did you go ahead and develop a close working relationship between Division 5 and the Internal Security Division?



Mr. MARDIAN. I don't know that it was a close working relationship. I hope that I had a close working relationship with all of the divisions of the Bureau.

Senator WEICKER. Did you and Mr. Sullivan become particularly close friends?

Mr. MARDIAN. I consider Mr. Sullivan a friend of mine; yes.

Senator WEICKER. Do you feel that—did you know him prior to going over to the Internal Security Division?

Mr. MARDIAN. No, sir.

Senator WEICKER. Do you—

Mr. MARDIAN. Pardon me, Mr. Sullivan wasn't in Division 5 when I went to the Internal Security Division.

Senator WEICKER. Where was Mr. Sullivan?

Mr. MARDIAN. He was the Associate Director of the FBI.

Senator WEICKER. Just to get back to an earlier question, earlier this morning, in what capacity—was it in the capacity as Associate Director of the FBI that he was given the job of the Kissinger tapes?

Mr. MARDIAN. I do not know. I did not know about those tapes until he came to see me.

Senator WEICKER. All right, let us get back to the relationship between the Internal Security Division and Division 5. Were they both housed in the same building?

Mr. MARDIAN. Yes, sir.

Senator WEICKER. Did you utilize the investigatory capabilities of Division 5 to a great extent while you headed up the Internal Security Division?

Mr. MARDIAN. Only with respect to ongoing litigation as I would any other division.

Senator WEICKER. Now, let us—

Mr. MARDIAN. Pardon me. I do not think that any of the divisions of the Bureau would appreciate saying that they were used in the prosecutory function. They send you investigative information, the attorney who has the responsibility for that particular case communicates with the division that is handling the investigation, and if the prosecutor feels they are not developing evidence sufficient to make a case, he would then write a memo indicating that they have no evidence to establish one of the elements of the crime. To that extent, they would have to develop further evidence if it was available.

Senator WEICKER. Were you aware when you arrived at the Internal Security Division that Division 5's activities had dwindled down to, I would say, insignificance? In other words, that they had little to do?

Mr. MARDIAN. I did not know that, but my arrival at the Internal Security Division coincided with the enactment in 1970 of the bombing statute, which was in the organized crime bill, as I recall it. And that reposed greater additional responsibilities in two divisions, Divisions 5 and 6, with respect to giving the Federal Government jurisdiction in bombing cases. I would say that the escalation of bombings that occurred from, say, 1969 to 1971—and I do not want to exaggerate; I think they went from some—I think they were increased by 500 percent. And I think that is a minimal figure of cases that were within the jurisdiction of those two divisions.

Senator WEICKER. Do you have any knowledge, sir, that relates to Division 5 and specifically the reason why they had dwindled down to

nothing, was because personnel over previous administrations had been principally assigned to either civil rights cases or to organized crime cases?

Mr. MARDIAN. I doubt that Division 5 went into organized crime. They have a jurisdictional problem in the Bureau like they do in other areas of Government.

Senator WEICKER. No, what I mean to say is that personnel were drained from Division 5 to go into the areas of organized crime and civil rights.

Mr. MARDIAN. I was unaware of that, Senator.

Senator WEICKER. Mr. Mardian, does the following motto mean anything to you? It has been reported to me by persons that are familiar with the Internal Security Division that there was a saying prevalent in the Internal Security Division that the Constitution was not meant to be a suicide pact. Have you ever heard that?

Mr. MARDIAN. That is a decision by the U.S. Supreme Court in *United States v. Kennedy*.

Senator WEICKER. In other words, is this what guided your stewardship of the Internal Security Division?

Mr. MARDIAN. Certainly not.

Senator WEICKER. Why do you say "certainly not?" What is your definition, if you will, of that phrase?

Mr. MARDIAN. I never heard of the phrase used as a motto all the time I was in the Internal Security Division. It was in a brief we filed, as I recall. I only recall it because it is cited in the *Kennedy* case, which is a U.S. Supreme Court decision.

Senator WEICKER. Did you feel or did the administration feel that crimes committed in the cause of political dissent were prosecuted less vigorously than normal, than crimes committed for money or some other gain?

Mr. MARDIAN. Did I feel that way?

Senator WEICKER. Yes.

Mr. MARDIAN. I do not think I felt that way and I do not think I so expressed myself. I think those crimes are more difficult to prosecute, more difficult to get convictions on, but I do not think I ever made such an expression.

Senator WEICKER. Do you have any idea how many people were at the Internal Security Division when you were sent over there?

Mr. MARDIAN. I would have to guess. You mean in terms of lawyers?

Senator WEICKER. In terms of lawyers, professional personnel.

Mr. MARDIAN. I would guess somewhere in the neighborhood of 50.

Senator WEICKER. Do you have any idea how many were there when you left?

Mr. MARDIAN. A guess again, 80.

Senator WEICKER. Well, the figures that I have, and of course, these are subject to confirmation, is that there were somewhere around 90 when you arrived and—

Mr. MARDIAN. Ninety lawyers?

Senator WEICKER. I am talking about professional personnel.

Mr. MARDIAN. I think that included all the personnel.

Senator WEICKER. And 158 when you left.

Mr. MARDIAN. I would not disagree if those are the figures you got from the Division.

Senator WEICKER. Can you give me a reason for this additional personnel?

Mr. MARDIAN. Yes; we had transferred to us over 8,000 selective service cases. That is one of the big reasons.

We were also given the responsibility—we had a floating unit in the Department of Justice composed of lawyers from the Criminal Division, from the Civil Rights Division, and from the Internal Security Division, dealing with radical activities. If it involved a, for instance, a Ku Klux Klan problem; then they had an expert from the Civil Rights Division. If they had a—just a general criminal bombing, they had somebody from the Criminal Division. And if they had a radical terrorist bombing, they had somebody from the Internal Security Division.

When I went to Justice, they seemed to have no head, that unit seemed to float around, and they put it in my division under my responsibility.

Senator WEICKER. It would be fair to say, though, that your division acquired a beefed-up litigating capability, would it not?

Mr. MARDIAN. Yes; I would say that, and I think that the statistics on bombing and terrorist activities in the United States in numbers would indicate that the number of lawyers did not rise as fast as the number of activities that needed prosecution rose.

Senator WEICKER. How many bombers and terrorists did you convict?

Mr. MARDIAN. I don't have the statistics.

Senator WEICKER. You must have some idea. Apparently, this problem was of major proportions. You as head of the division must take some pride in your work. Could you indicate to me exactly how many were convicted?

Mr. MARDIAN. I didn't keep those statistics myself. I am sure that the Department statistics are available. The conviction rate on bombings did increase very substantially.

Senator WEICKER. And also in the area of terrorism?

Mr. MARDIAN. Well, I put those types of bombings—those are the only ones we had jurisdiction over—the terrorist bombings.

Senator WEICKER. If you had to set a list of priorities as between organized crime, civil rights, political dissent, where would you place these insofar as the division when you were its head? Were you very active in the area of organized crime?

Mr. MARDIAN. It was not within my jurisdiction.

Senator WEICKER. Civil rights?

Mr. MARDIAN. It was not within my jurisdiction.

Senator WEICKER. Well, what was within your jurisdiction?

Mr. MARDIAN. The statutes that were allotted to the Internal Security Division.

Senator WEICKER. And can you define that in layman's language as to what that included?

Mr. MARDIAN. Well, one of the functions, for instance, of the Internal Security Division which is little known is the Registration Act, Foreign Agents Registration Act. The Foreign Agents Registration Act has nothing to do with the foreign agents of the type you think of. That means anybody that is a representative of a foreign power that is working in this country seeking to influence legislation. It is more

of a lobbying statute. And they have to register with us and file reports with us every 6 months and that is a rather time-consuming job and it takes people to do it.

Espionage, sabotage, sedition—those statutes; selective service; the bombing statutes. Those types, those statutes that relate to internal security. The Subversive Activities Control Board came within my purview, but I don't think I filed any cases while I was Assistant Attorney General. I could be mistaken.

Senator WEICKER. The *Pentagon Papers* case? That came within the purview of the Internal Security Division?

Mr. MARDIAN. Espionage. That came under 793.

Senator WEICKER. And the May Day demonstrations?

Mr. MARDIAN. The May Day demonstrations did not come within my purview.

Mr. BRESS. Mr. Chairman, Senator Weicker, I would like to raise this question for a ruling by the Chair. I did not—Mr. Chairman, I am making a point in connection with this line of examination. I didn't raise the point earlier because I thought that there might be some peripheral relationship between this line of inquiry and something that might follow. But if I understand it correctly, any question is proper to be propounded by the Senators which is within the Resolution 60 adopted by the U.S. Senate. To engage into an inquiry about the procedures of certain divisions of the Department of Justice and the kind of knowledge acquired by a former Assistant Attorney General in connection with the activities of the Department that has no remote relationship to any issue involved in Resolution 60 seems to me to be beyond the scope of the inquiry as I read Resolution 60.

Senator ERVIN. Well, while the Chair hates to make a ruling which might be disapproved by any member of the committee, the Chair is bound to confess it agrees with your interpretation of the questioning.

Senator WEICKER. I will only say that under the circumstances that Mr. Mardian did not hesitate to go ahead and issue orders to former associates at the Internal Security Division to deliver materials to the White House. That has been established by Mr. McCord's testimony.

Senator ERVIN. But that is not the questions you are asking him. You are asking about the organization or reorganization of several divisions of the Department of Justice while he was Assistant Attorney General in charge of internal security. It has been held by the U.S. Supreme Court on a number of occasions that a congressional committee has no authority to make any inquiry except inquiries which are within the scope of the matters it is authorized to investigate.

Now, it would be germane to the testimony to show that the Department of Justice was cooperating with one of the persons involved in some of the activities that the committee is authorized to investigate. But I am compelled to agree with counsel that this has gone outside of the scope of that.

Senator WEICKER. Although, Mr. Chairman, his division was responsible for the prosecution of the Ellsberg matter and Mr. Mardian himself was involved in the handing over of the Kissinger tapes. What I mean to say is that I think the political activity of this Division was quite extensive, both under his leadership and when he departed to join the Committee To Re-Elect the President.

Senator ERVIN. Well, I think the testimony about the Ellsberg matter is only admissible to show the plan harmonizing with the break-in

of the Watergate and to raise an inference that the same people, that the identities of the parties were responsible. I think it is competent if you want to ask him about anything he knows about the Ellsberg thing. But this other matter is going rather far outside the scope of authority, I think.

Senator WEICKER. I return again to the statement that has been made and is a matter of evidence before this committee:

The Watergate matter was an inevitable outflow of a complement of excessive concern over the political impact of demonstrators, excessive concern over leaks, and an insatiable appetite for political intelligence, all coupled with a do-it-yourself White House staff regardless of the law.

I think, Mr. Chairman, it has been pointed out very clearly by this witness and by others as to the insatiable appetite for political intelligence. It has been pointed out very clearly as to the excessive concern over leaks. It is now my intention to go ahead in this line of questioning, and I will certainly be subject to the Chairman's ruling, to fill in the third piece of the puzzle, specifically, the excessive concern of the political impact of demonstrators and that this was one of the reasons why we ended up in the matter of Watergate.

Senator BAKER. Mr. Chairman, if I could be heard just for a moment.

I think that I have a fair understanding of the point of view expressed by Senator Weicker and by the chairman as well, and counsel for the witness. I know that the role of a peacemaker is traditionally to get zapped, so I am reluctant to intervene in this respect. But I wonder if we can't accommodate the purposes that Senator wishes and still stay within the purview of the inquiry of this committee.

I confess I did not hear the original question put to the witness; I was speaking to minority counsel at the time. But I understand the burden of Senator Weicker's concern. I wonder if we could start over and see if we can't reach a middle ground on the situation.

Senator ERVIN. I certainly sympathize with the position stated by Senator Weicker. One of the things that has puzzled me is why some people in the White House didn't trust the Department of Justice to prosecute and the FBI to investigate the Ellsberg affair.

I am puzzled by that and I think that is germane to our investigation, because it is right along with, and is very, very closely related to matters that we certainly have express authority to investigate. I recognize it is the duty of the President, the Constitution says he shall take care that the laws shall be faithfully executed, but I don't think that it justifies, for example, taking over trying to get records of a psychiatrist's opinion of the mental or emotional state of Ellsberg. As a matter of fact, I don't know who commissioned that activity; the evidence doesn't quite show it, but whoever did it, if he was a lawyer, he ought to surrender his law license if he didn't know that there was no legitimate way that he could get the record of the psychiatrist without either bribing the psychiatrist to violate the Hippocratic oath, or by theft of some species.

I have a great deal of sympathy for the position of Senator Weicker.

Mr. BRESS. Mr. Chairman, my objection in no way relates to any question of his looking into the burglary of the Ellsberg psychiatrist. But the Pentagon Papers—the questions might as well deal with Mr. Mardian's duties as General Counsel of Health, Education, and Welfare.

Senator WEICKER. May I point out to counsel that upon questioning of Mr. Mardian this morning when he first denied Mr. Liddy's presence in the Internal Security Division, upon questioning it was established that Mr. Liddy indeed had been there on more than just the matter he testified to in response to an earlier question. I think this very much goes to Mr. Mardian's knowledge of Mr. Liddy, and the fact that the two had worked together on other matters, specifically the *Pentagon Papers* case.

Mr. BRESS. No objection to that kind of inquiry.

Senator ERVIN. Senator, suppose you proceed and see if the questions, if they can be brought within the orbit of the Senate Resolution 60, which is rather broad.

Senator WEICKER. Mr. Chairman, I will conclude; I am going to conclude my questioning in a few minutes anyway, but I would just say that the thrust of this line of questioning is very directly related to the mandate of our committee, which is the utilization of the Internal Security Division to stifle political dissent in this country, and these questions are asked in that context—

Mr. MARDIAN. May I comment on that, please, Senator?

Senator WEICKER [continuing]. And that is the mandate of this committee.

Mr. MARDIAN. May I comment on that, Mr. Chairman?

Senator WEICKER. Yes, please do, Mr. Mardian.

Mr. MARDIAN. I think that your statement that the Internal Security Division of the Department of Justice was for the purpose of stifling dissent in this country does an injustice to the Department of Justice and to a lot of fine people who worked there and I feel that it is incumbent upon me as a former Assistant Attorney General of that Department to say that, and I do not mean that in a contumacious way. I feel it my obligation to say so. The people in that Department that I know are some of the finest people I know, and I think that to suggest that they were involved in that type of activity is not fair to them.

Senator WEICKER. My comments are made to your leadership of that Department, and solely to that.

Could you indicate to this committee exactly what role you played in relationship with Mr. Liddy, Mr. Young, and Mr. Krogh on the matter of the *Pentagon Papers* while you were the head of the Internal Security Division of the Justice Department?

Mr. MARDIAN. The only relationship that I recall with any of the gentlemen you mentioned, I recall none with Mr. Krogh specifically. Mr. Young, I understood, was the representative from the National Security Council. Mr. Liddy was the representative from the White House. I understood that they were compiling information for the benefit of the President of the United States and for the Director of the National Security Council as to the progress of the investigation into the leak of the *Pentagon Papers*, and I do not recall meeting with Mr. Liddy on that subject or Mr. Young on more than one occasion. There certainly was not any political purpose involved in any such relationship.

Senator WEICKER. Who did you communicate with in the Internal Security Division relative to the handing over of information to James McCord?

Mr. MARDIAN. I would like to straighten some of the testimony out in that regard. My recollection is, and I could be wrong, because I do not think it is significant, that I had no face-to-face conversation that I can recall with Mr. McCord. I believe it was in the latter part of May, as Mr. McCord has suggested, that I received a memo, a hand-delivered memorandum from Mr. Robert Odle. It was a memorandum from Mr. McCord to Mr. Mitchell, and I do not recall what it said. The purport was whether or not information relating to the potential for civil disorder at the Republican National Convention would be available to the committee to avoid another Chicago.

Mr. Odle brought that memo to me, as I recall, and it was OK; it had an OK by Mr. Mitchell. Mr. Odle asked me if I could call the Justice Department and make available to the security officer for the committee civil disorder information as it related to the Republican National Convention.

I personally called the Justice Department, I called Mr. John Martin, I believe, and I told him he would be hearing from Mr. McCord. I identified who Mr. McCord was, and I requested of him that he make available to Mr. McCord any information relating to the potential for civil disorder that the Department could furnish him under Department guidelines. That is the sum and extent of the situation, as I recall it. And knowing Mr. Martin, I doubt seriously if he would have given him any information other than that which the guidelines provided.

I had one other conversation with Mr. McCord and that related to the employment of a driver who had been promised employment at the committee. In reliance upon that promise he quit his job. When he came over to be employed they told him they did not need him. I called Mr. McCord and I asked him if he had promised this young man employment and he said, "Yes, sort of tentative." They did not need him and I said, "It is not too tentative that he did not quit his job"; and I asked him to hire him whether they needed him or not.

Senator WEICKER. Leaving aside cases of bombing, did the Internal Security Division expend any effort on groups which we would broadly term as being peace groups, antiwar groups, et cetera?

Mr. MARDIAN. As to peace groups, antiwar groups, I would say no, unless it related to a potential for civil disorder. In other words, unless they were planning a mass rally of 50,000 people in Washington, then not the Internal Security Division but the Department of Justice, I mean the FBI, and other agencies such as the police department, would count the buses and planes coming in, to try to assess how many people they were going to have to handle. To that extent, yes, because—not because they were antiwar people but because they amounted to masses of people that were going to have to be controlled, as far as traffic and the possibility or the potential for civil disorder when you get that many people in the District.

Senator WEICKER. Do you know of any investigations or wiretaps, as they related to either political figures or members of the press, that were ordered by the Internal Security Division other than the Kissinger taps?

Mr. MARDIAN. The Internal Security Division to my knowledge, never ordered a single wiretap.

Senator WEICKER. Let me repeat the question: Requested a wiretap?

Mr. MARDIAN. The Internal Security Division never requested a single wiretap during my tenure.

Senator WEICKER. You then make it a matter of record the Division, during your tenure, never requested a wiretap of Division 5 of the Federal Bureau of Investigation?

Mr. MARDIAN. To my knowledge, sir, all those requests had to come from persons designated by the President of the United States and they could only be made to one person and that is to the Director of the FBI.

Senator WEICKER. I have no further questions, Mr. Chairman.

Senator ERVIN. Counsel.

Mr. HAMILTON. Mr. Mardian, I have just a few questions, and I would first like you to clarify an apparent conflict in the record from your testimony yesterday so the record will be straight. At page 4794 you said: "Mr. Magruder said to Mr. Mitchell that he had authorized \$250,000 and this seemed but a very small part of that sum. That is how the \$250,000 budget came up." Let me say in saying that to you there is, what I take it to be, a typographical error; the first three words are "Mr. Magruder lied to Mr. Mitchell." I think that should read "Mr. Magruder said to Mr. Mitchell."

Mr. MARDIAN. Said, yes.

Mr. HAMILTON. However, at page 4797, this is the testimony, the question was "And did you subsequently confirm that the budget that had been allocated to Mr. Liddy was actually \$250,000 and your answer was this: "To this day that matter has never been confirmed to me." And it appears there is some conflict here, and I would like for you to clear that up.

Mr. MARDIAN. Read that again, please.

Mr. HAMILTON. The last quote, Mr. Mardian?

Mr. MARDIAN. Yes.

Mr. HAMILTON. The question was: "And did you subsequently confirm that the budget that had been allocated to Mr. Liddy was actually \$250,000?"

Mr. MARDIAN. To this day that matter has never been confirmed to me. I think I was referring to a question relating to the \$199,000 and that is how I understood it. So I would—I must have misunderstood the question or they took the figure down incorrectly.

Mr. HAMILTON. I would be happy to read the statement. "I was never apprised of the fact there never had been any agreement on the amount of disbursement. I think Mr. Sloan's testimony was that it was \$199,000."

Mr. MARDIAN. Yes; that is what I would have been referring to.

Mr. HAMILTON. I think the question is: Did you ever have confirmation from either Mr. Mitchell or Mr. Magruder that the budget that had been approved for Mr. Liddy's dirty trick operations and black advance operations was \$250,000?

Mr. MARDIAN. Yes. I think I testified that I am not sure in what context it arose, whether it arose in California, whether it arose immediately thereafter. My best recollection was that it arose in connection with the confrontation between—that I had with Mr. Magruder in Mr. Mitchell's presence when I asked about—when I asked him how much money he had given Mr. Liddy; and he replied "\$40,000," and I said in surprise: "\$40,000," and it was echoed by Mr. Mitchell, "\$40,000."



He then said, "That is a small part" or something "of that—of the \$250,000 you authorized." Mr. Mitchell's reply, as I recall, was "Yes, but the campaign hasn't started yet."

Mr. HAMILTON. So there was no denial by Mr. Mitchell in your presence that he had authorized a \$250,000 budget?

Mr. MARDIAN. That is what I think I testified to.

Mr. HAMILTON. All right.

Mr. MARDIAN. I think I testified I don't recall Mr. Mitchell saying "Yes, I approved \$250,000" but simply when that question came up he did not deny it.

Mr. HAMILTON. Now, on page 4827 you testified that after Mr. Mitchell informed you that he could not fire Mr. Magruder and Mr. Porter you advised him to prepare a memorandum for the file to protect himself, and you then said that he instructed you to have one prepared and that Mr. O'Brien was going to be the actual author of this memorandum?

Mr. MARDIAN. Yes, sir.

Mr. HAMILTON. Now, what facts did you intend to put into this memorandum?

Mr. MARDIAN. To put in all the facts that Mr. Mitchell was aware of at the time the discussion took place.

Mr. HAMILTON. Could you fix that time for us?

Mr. MARDIAN. I am sorry; it would have been immediately before July 1, probably, maybe I would guess that is in the timeframe.

Mr. HAMILTON. About July 1?

Mr. MARDIAN. Yes.

Mr. HAMILTON. And you also testified, Mr. Mardian, at page 4827 of the transcript, that after Clark MacGregor had made certain "flat statements," I believe was the term you used, regarding noninvolvement of campaign personnel, you complained to him that certain of his statements were untrue and unsuccessfully attempted to brief him about the tremendous exposure of certain people in the campaign.

Now, in this briefing that you tried to give Mr. MacGregor, what facts were you going to tell him?

Mr. MARDIAN. I was going to tell him of the involvement of—I thought he ought to know about the involvement of Mr. Magruder and Mr. Porter with reference to their activities.

Mr. HAMILTON. When you say "the involvement of Mr. Magruder," you mean the involvement as recounted to you by Mr. Liddy?

Mr. MARDIAN. No; I was not going to relate what Mr. Liddy told me but I felt that any admission on the part of these men, and I felt this admission was going to come forward, at least as far as dirty tricks and other unethical activities were concerned, that they had to come out even if they didn't admit to the Watergate adventure, who were still employed in the Committee To Re-Elect the President would reflect adversely on the President of the United States in his campaign for reelection.

Mr. HAMILTON. Are you saying you were not going to tell Mr. MacGregor that it was your feeling that Mr. Magruder had been involved in the Watergate affair?

Mr. MARDIAN. I wasn't going to accuse Mr. Magruder. I think I was going to tell him my suspicions and I felt he ought to know those suspicions before he made any further statements.

Mr. HAMILTON. What suspicions?

Mr. MARDIAN. Well, it was obvious that they had been engaged in dirty tricks and black advance operations and my suspicion was he had been involved in the Watergate break-in.

Mr. HAMILTON. Well now, Mr. Mardian, would not revealing these facts to Mr. MacGregor and revealing these facts to Mr. O'Brien, who was going to write this memo for the file, and revealing these facts to whoever might have read the file, be a violation of the duty you asserted you had to keep inviolate the conversations that had been placed in you by Mr. Liddy?

Mr. MARDIAN. I wasn't going to violate Mr. Liddy's confidence. I felt that Mr. Magruder occupied the position of Mr. Mitchell. I think he ought to know my suspicions and I said I was not going to accuse anyone. I just thought he ought to know my suspicions. I was the counsel for the committee and I think the client ought to know what the attorney thinks, and I thought it would be helpful in guiding him as to the nature of statements he made in the future.

Mr. HAMILTON. Your suspicions, however, were based, were they not, on what Mr. Liddy had told you primarily?

Mr. MARDIAN. I can't go into all of it. When the dispute arose between the \$40,000 and the \$199,000, if I knew nothing more than that I would have been suspicious. I made the statement on several occasions to suggest you would give Mr. Liddy \$200,000 and then be surprised that he used it for an illegal purpose in cash would be like suggesting that you gave a young child a loaded pistol and sent him into a crowded room and then were surprised that somebody was killed, and I expressed myself in that regard, and I could have made—I would have expressed myself in that regard indeed without knowledge of what Mr. Liddy had told me.

Mr. HAMILTON. Well now, you just said you were going to put in this memo to the file all the facts that you knew as of the first of July and those would include, would they not, the facts that Mr. Liddy had told you?

Mr. MARDIAN. I thought Mr. Mitchell ought to put in the memorandum all of the facts that he knew at that time.

Mr. HAMILTON. Including what Mr. Liddy had told you?

Mr. MARDIAN. We didn't go into that. I said I think, in order to protect himself as justification for his conduct, to put in memorandum form what he knew.

Mr. HAMILTON. And Mr. O'Brien was going to be the author, is that correct?

Mr. MARDIAN. What is that?

Mr. HAMILTON. You said Mr. O'Brien was designated as the author.

Mr. MARDIAN. Was going to ask Mr. O'Brien to draw it, yes.

Mr. HAMILTON. If you had revealed these facts to Mr. O'Brien would that not have been violating the confidence?

Mr. MARDIAN. I had not revealed them to Mr. O'Brien.

Mr. HAMILTON. But you were planning to do so. It was you who advised Mr. Mitchell to put this information in the memorandum.

Mr. MARDIAN. What Mr. Mitchell could put in the memorandum was up to Mr. Mitchell and not up to Mr. Mardian. I didn't think, I don't think Mr. Mitchell was bound.

Mr. HAMILTON. I thought you said that Mr. Mitchell instructed you to prepare this memorandum and you were going to use Mr. O'Brien as the author.

Mr. MARDIAN. No. I think Mr. O'Brien—instructed Mr. O'Brien to prepare the memorandum and I presumed that he would talk to Mr. Mitchell and prepare the memorandum. It was almost immediately thereafter Mr. Mitchell told me that the memorandum wasn't to be prepared.

Mr. HAMILTON. Mr. Mardian, did you confront Mr. Magruder with Mr. Liddy's assertion that he, Mr. Magruder, had ordered the break-in?

Mr. MARDIAN. I don't think I—I doubt if I said: "Mr. Liddy told me that you ordered the break-in." I may have said it. I doubt it.

Mr. HAMILTON. Well, you testified that 1 or 2 days after your conversation with Mr. Liddy you asked Mr. Magruder whether he directed Mr. Liddy to go in there and he denied it.

Now, at that time you did not say to Mr. Magruder that: "Mr. Liddy has told me."

Mr. MARDIAN. No, sir, I don't think so. I am sure I didn't.

Mr. HAMILTON. You did not say that. Mr. Magruder didn't say to you, "Well, Mr. Mardian, where did you get that information or what makes you ask the question?"

Mr. MARDIAN. I think it would have been a very logical question for me to ask him if he had anything to do with it.

Mr. HAMILTON. Why? Why would it have been logical?

Mr. MARDIAN. He hired him, he paid him. He was the source of Mr. Liddy's money.

Mr. HAMILTON. But he had been on the outs with Mr. Liddy; wasn't that a known fact around the committee?

Mr. MARDIAN. That is right.

Mr. HAMILTON. Why would it have been any more logical for Mr. Magruder to be asked that question than Mr. Mitchell or Mr. LaRue or someone else?

Mr. MARDIAN. It was rather incongruous that the two of them were still working together.

Mr. HAMILTON. Mr. Mardian, if I might, I would like to read you just a few lines that you testified to yesterday regarding Mr. Magruder's perjury. You said, "I think he" that is Magruder "probably was aware of the fact that I, after talking to Mr. Liddy, knew of his involvement, and I would be less than honest if I did not say that if Mr. Magruder went up there" that is to the grand jury "went up there and testified that he was not involved he would be perjuring himself. If you want my personal opinion I thought he was going to go up there and take the fifth amendment."

Question. Well, did you know after he testified what he testified to?

Mr. MARDIAN. No. I did not. I knew he was not indicted so he must not have taken the fifth and he must not have testified as to the truth.

Question. So then you had some indication that Mr. Magruder had committed perjury.

Mr. MARDIAN. Are you talking about the grand jury?

Question. Yes.

Mr. MARDIAN. Yes. I think I knew an awful lot and I suspected an awful lot.

Now, Mr. Mardian, I would like to ask you if you are familiar with the ABA Code of Professional Responsibility.

[Child crying in audience.]

Mr. HAMILTON. I hope my question didn't produce that effect.

Are you familiar with the ABA Code of Professional Responsibility?

Mr. MARDIAN. Yes, sir. Well, when I say yes, sir, I am aware of the code, I am not aware of all of its provisions any more than any other lawyer, I don't think.

Mr. HAMILTON. I would like to read to you, please, rule DR 7-101 (B):

A lawyer who receives information clearly establishing that (1) his client has in the course of a representation perpetrated a fraud upon a person or tribunal, promptly call upon his client to rectify the same and if his client refuses or is unable to do so he, reveal the fraud to the affected person or tribunal.

(2) A person other than his client has perpetrated a fraud upon a tribunal shall promptly reveal the fraud to the tribunal.

Now, I would ask you whether you believe that this rule would require you either to attempt to rectify Mr. Magruder's testimony or to report him to the court.

Mr. MARDIAN. I don't know the citation of cases.

Senator BAKER. Before the witness answers, I don't by any stretch of the imagination want to limit the scope of your inquiry or the witness' answer, and apparently, the witness is willing to answer; he had begun before I interrupted. But I am a little at a loss to see how the citing of a canon of ethics or other matter that would relate, if at all, to the conduct of this man in his professional capacity, has something to do with the scope of this inquiry.

Now, if the contrary is made to appear, I will be glad to listen to the arguments. But that seems to me that is a little far afield from the scope of this witness' information and knowledge relevant to the mandate of Senate Resolution 60.

Senator ERVIN. Well, I believe if evidence is offered by counsel for the purpose of impeaching the witness, it would be admissible for that purpose. I would suggest that we permit the examination as much as possible, because counsel can ask leading questions to bring out some points, I think, more quickly than generally.

Senator BAKER. It seems to me, Mr. Chairman, to pursue it for just one moment further, that it might be appropriate to ask the witness if he thought it his duty to do so and so, but to go further and try to cite canons of ethics or matters that might or might not be relevant to charges of professional misconduct is beyond the scope of the proper inquiry of the committee.

Mr. BRESS. Mr. Chairman, as Senator Baker said, to go one step further, I agree with his observation, but in view of the fact that the question relating to the canons of ethics has been asked, I would prefer that my client be given the opportunity to answer it.

Senator BAKER. Mr. Chairman, I fully understand and I withdraw my remarks in that connection.

Mr. MARDIAN. I have not researched the question or the cases cited in support of the cases, but one thing that I have been taught and I could be wrong, and that is that it is not the lawyer's duty to judge. The lawyer's duty is to permit the court to judge.

Now, where I have had conflicting evidence as to what went on, I still don't know the truth. I told you what I suspected. For me to go to a tribunal and to state my subjective judgment to him to the detriment of a person who has confided in me, I think, would be highly improper. And that is my view, that was my belief, that is still my belief.

Mr. HAMILTON. Mr. Chairman, no further questions.

Senator BAKER [presiding]. All right, fine. Thank you.

We are going to have to recess for a vote at this point. I do want to say before I leave, however, that the remarks I made about the scope of the inquiry is in no way meant to be critical of the counsel. Mr. Hamilton is an exceptional lawyer, he is an energetic interrogator of witnesses and it is only through an abundance of caution that I wanted to call attention of the witness to the importance of the question being put, but it is neither a criticism of the witness nor of counsel.

The committee will stand in recess until the end of this vote.

[Recess.]

Senator BAKER [presiding]. The committee will come to order.

I understand Mr. Hamilton is finished with his interrogation. The chairman asked me to continue.

Senator Gurney.

Senator GURNEY. No questions.

Senator BAKER. Mr. Thompson.

Mr. THOMPSON. No.

Senator BAKER. Senator Weicker.

Senator WEICKER. I have just a few very brief questions in winding up this line of questioning with you, Mr. Mardian.

First of all, did you get along with the Director of the FBI, Mr. Hoover?

Mr. MARDIAN. Did I get along with him?

Senator WEICKER. That is right. Was yours a good relationship?

Mr. MARDIAN. I believe that I only had one lengthy conversation with him. All of our other meetings were largely social.

Senator WEICKER. Did you ever say to anyone—let me rephrase my question.

At any time, did you use your attorneys in an investigative function?

Mr. MARDIAN. Investigative function?

Senator WEICKER. Correct, in an investigative function.

Mr. MARDIAN. On one occasion, I asked an attorney in my Division to inquire as to a matter that was then the subject of inquiry by the U.S. Senate.

Senator WEICKER. And what was that?

Mr. MARDIAN. It involved a question that had come up during the Kleindienst confirmation hearings, when a member of the White House staff had obtained a picture that purported to identify two people together. The picture was to be introduced into evidence by a U.S. Senator. I had taken exception to the use of the photograph, because I did not feel it was relevant to the hearings. It had not been established that simply because the two people in the picture were together, that they were friends. Before the U.S. Senator introduced this picture—it was a group picture—I suggested that we take the precaution of ascertaining whether they were in fact friends, and I asked an attorney in my Division, during the Senate hearings, to go to the place where the picture was taken and to inquire of the people there—openly, not covertly—whether in fact these two people were friends, as was going to be suggested by the introduction of the picture. I ascertained from that, the interviews he made, that they were not, and I requested the picture not to be used by the U.S. Senator, or I was going to. Unfortunately, they had already used the picture.

Senator WEICKER. And this is the only time that you can recall that you used an attorney in the Internal Security Division in an investigative function?

Mr. MARDIAN. Well, I do not know that it was exactly an investigative function. This was a matter pending before the U.S. Senate involving the Department of Justice and I thought I had better use an attorney. I did not know who else to use.

Senator WEICKER. But this is the only incident that even would come close to filling that definition?

Mr. MARDIAN. The only one I can recall, Senator.

Senator WEICKER. All right.

Mr. Mardian, can you recall saying when you first came over to the Internal Security Division, can you recall making the statement to a member of the Federal Bureau of Investigation that—

The way to solve this is to set up a list of leaders and we target them for prosecution and we go after them with blanket coverage, 24 hours a day, until we get them?

Mr. MARDIAN. I recall no such statement, Senator.

Senator WEICKER. Did you make that statement or do you recall, rather, making that statement to the then Assistant Director of the FBI in charge of Division 5, Mr. Brennan?

Mr. MARDIAN. With respect to a particular investigation?

Senator WEICKER. With respect to demonstrators?

Mr. MARDIAN. No, sir.

Senator WEICKER. I have no further questions.

Senator BAKER. Senator Inouye.

Senator INOUE. No questions, sir.

Senator BAKER. Senator Montoya?

Senator MONTOKA. No questions.

Senator WEICKER. Mr. Chairman, I would just like to make one other statement here. I do not want to leave any wrong impression as far as Mr. Mardian is concerned.

In my interview with Mr. Brennan, he also made the statement: "Never once did he ask me to do anything illegal or improper." I want that to be on the record, too, insofar as Mr. Mardian is concerned.

Mr. MARDIAN. Thank you very much, Senator.

Senator BAKER. Mr. Mardian, we thank you for your testimony. It has been in a most cooperative vein. We are grateful for it. We have already requested and you have already agreed to return if that be necessary and we will have certain late-filed comments. The committee wants to express its appreciation to you for your cooperation.

Mr. MARDIAN. I would like to express my appreciation to the committee for its courtesy and its cooperation.

Senator BAKER. Thank you very much.

Counsel will call the next witness, please.

Mr. DASH. Mr. Gordon Strachan, will you please come to the witness table?

Senator BAKER. Mr. Strachan, would you stand and raise your right hand, please?

Do you swear that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. STRACHAN. So help me God.

Senator BAKER. You may be seated, Mr. Strachan.

Mr. Strachan, just by way of preliminary inquiry, may I ask you to state your name and address, and then I will put a particular question of relevance to your testimony.

**TESTIMONY OF GORDON STRACHAN, ACCOMPANIED BY  
JOHN BRAY, COUNSEL**

Mr. STRACHAN. My name is Gordon Strachan. I live at 8205 Hamilton Spring Court, Bethesda, Md.

Senator BAKER. And you are accompanied by counsel?

Mr. STRACHAN. Yes, sir.

Senator BAKER. Would counsel please identify himself for the record?

Mr. BRAY. John Bray, Washington, D.C.

Senator BAKER. Mr. Strachan, you have appeared previously before this committee in executive session, where certain questions were put to you which you declined to answer on constitutional grounds, at which time you were made aware of a petition for a grant of use immunity under title 18, sections 6002 and 6005 of the United States Code, signed by Judge John Sirica. You were then instructed to answer questions, which you did, at the executive session.

The attachment of the grant of use immunity, the Chair rules, applies to your testimony now in public session. So without reiterating the substance of those decrees signed by Judge Sirica, you are advised that you should respond to questions put by counsel for the committee and committee members and proceed accordingly to answer under the full scope and jurisdiction and the effectiveness of the order of which you have received a certified copy.

Mr. STRACHAN. I understand.

Senator BAKER. Does counsel have any comment to make in that respect?

Mr. BRAY. None. I think the entire matter of immunity has been handled fully to my satisfaction and Mr. Strachan's, in executive session.

Senator BAKER. If there is no objection on the part of the committee, we will incorporate pertinent portions of the transcript of the hearing in executive session in the record at this point.

[The portions of transcript referred to follow:]

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

IN THE MATTER OF THE APPLICATION OF U.S. SENATE SELECT COMMITTEE ON  
PRESIDENTIAL CAMPAIGN ACTIVITIES

APPLICATION FOR ORDER CONFERRING IMMUNITY UPON AND COMPELLING TESTIMONY  
AND PRODUCTION OF INFORMATION FROM GORDON STRACHAN

The Select Committee on Presidential Campaign Activities of the United States Senate, by its Counsel, hereby applies to this Court for an order conferring immunity upon and compelling Gordon Strachan (the "Witness") to testify and provide other information before this Committee pursuant to the provisions of Title 18, United States Code, Sections 6002 and 6005. In support of this application, the Committee states:

1. The Select Committee on Presidential Campaign Activities, pursuant to Senate Resolution 60, Section 1(a), 93rd Congress, 1st Session, is inquiring into the extent, if any, that illegal, improper, or unethical activities were engaged in by any persons, acting individually or in combination with others, in the Presidential election of 1972, or any campaign, canvass, or other activity related to it.

2. The Witness will be subpoenaed to appear before this Committee during hearings that will be held in the near future.

3. It is anticipated that the Witness will invoke his Constitutional privilege against self-incrimination and refuse to testify or provide other information relating to his activities that come within the scope of the investigatory authority established by Senate Resolution 60.

4. This Application has been approved by an affirmative vote of all seven members of the Select Committee as attested to by the Certification of Samuel Dash, Chief Counsel, Senate Select Committee on Presidential Campaign Activities. The Certification is attached hereto as Exhibit 1.

5. Notice of an intention to request this order was given to the Attorney General of the United States as required by Title 18, U.S.C. § 6005(b)(3) on June 5, 1973, as attested to by the Certificate of Service attached hereto as Exhibit 2. The Attorney General's ten day waiting period between notification and request for the order provided for in § 6005(b)(3), has expired.

Respectfully submitted,

SAMUEL DASH,  
*Chief Counsel, Select Committee on  
Presidential Campaign Activities.*  
JAMES HAMILTON,  
*Assistant Chief Counsel.*  
RONALD D. ROTUNDA,  
*Assistant Counsel.*

June 15, 1973.

UNITED STATES SENATE,  
SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES,  
Washington, D.C., June 15, 1973.

#### CERTIFICATION OF VOTE

I, Samuel Dash, Chief Counsel of the Select Committee on Presidential Campaign Activities of the United States Senate, do hereby certify that the application for order conferring immunity upon and compelling testimony and production of information from Gordon Strachan filed pursuant to the provisions of Title 18, United States Code, Sections 6002 and 6005 was approved by a unanimous vote of the seven members of said Committee on June 5, 1973.

SAMUEL DASH, *Chief Counsel.*

UNITED STATES SENATE,  
SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES,  
Washington, D.C., June 15, 1973.

#### CERTIFICATE OF SERVICE

I, Samuel Dash, do hereby certify that on the 5th day of June, 1973, I served a notice of our intention to seek an order conferring immunity upon and compelling testimony and production of information from Gordon Strachan, upon the Honorable Elliot L. Richardson, Attorney General of the United States and Archibald Cox, the Special Prosecutor, by having said notice hand delivered to them at their offices, located respectively in the Main Justice Building, 10th and Constitution Avenue, NW, Washington, D.C. and at 1425 K Street, NW, Washington, D.C. A copy of this notice is attached to this Certificate of Service.

SAMUEL DASH, *Chief Counsel.*

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

IN THE MATTER OF THE APPLICATION OF U.S. SENATE SELECT COMMITTEE ON  
PRESIDENTIAL CAMPAIGN ACTIVITIES

ORDER CONFERRING IMMUNITY UPON AND COMPELLING TESTIMONY AND PRODUCTION  
OF INFORMATION FROM GORDON STRACHAN

The United States Senate Select Committee on Presidential Campaign Activities, having made written application for an order conferring immunity upon Gordon Strachan and compelling him to testify and provide other information before it, pursuant to Title 18, United States Code, Sections 6002 and 6005, and on Court finding that all procedures specified by § 6005 have been duly followed, it is hereby this 6th day of July, 1973



Ordered that the said Witness in accordance with the provisions of Title 18, United States Code, sections 6002 and 6005, shall not be excused from testifying or providing other information before the Select Committee on Presidential Campaign Activities on the ground that the testimony or other information sought may tend to incriminate him.

And it is further ordered that the said Witness appear when subpoenaed by said Committee and testify and provide such other information that is sought with respect to the matters under inquiry by said Committee.

And it is further ordered that no testimony or other information compelled under this Order (or for any other information directly or indirectly derived from such testimony or other information) may be used against the Witness in any criminal case, except for perjury, giving a false statement, or otherwise failing to comply with this order.

JOHN J. SIRICA,  
*U.S. District Judge.*

Senator BAKER. Mr. Dash.

Mr. DASH. Mr. Strachan, do you have a statement to read to the committee?

Mr. STRACHAN. Yes, I do.

Mr. DASH. Would you please read that?

Mr. STRACHAN. Mr. Vice Chairman and members of the committee, I am here at the request of the committee and prepared to answer fully and truthfully, all questions related to the matters specified in Senate Resolution 60, establishing this committee's jurisdiction.

As you know, I met three times in executive session with the committee and its staff in order to permit the committee to prepare for today's questioning. In addition, on four prior occasions my attorney met with committee attorneys to explain the subjects on which I could testify.

The committee voted unanimously to grant immunity with respect to this testimony and my counsel has advised me that testimony under such a grant is a legally proper procedure intended to permit a full, candid disclosure of the truth about the Watergate matter.

I should also add that before my discussion with this committee, I had already met—voluntarily—with the Watergate prosecutors on three occasions and my attorney met with them and their successors on four more occasions.

In short, even prior to testifying here today, I made a complete and honest disclosure to the original prosecutors, to their successors and to this committee.

Much of the information I will disclose is politically embarrassing to me and the administration. Some of it shows that I closely associated during my employment at the White House with individuals who have confessed to criminal wrongdoing.

Where other witnesses have made charges, if I know their statements are true, I am here to confirm the truth of such charges, even to the extent it might reflect adversely on me. You will find that I will readily admit today many things that anyone who is trying to cover up would quickly deny.

But where I know that the statements of a witness are false, I will deny them, not out of a motive to protect anyone—certainly not out of a motive to protect myself—for I am confident that the immunity I have been granted is genuine.

In other words, my intention to corroborate specific matters and to refute others does not stem from a desire to testify for or against any-

one—nor from a desire to feign excessive remorse—but solely because I am here to tell the truth.

Press reports predicting my testimony here have been nothing short of incredible. My testimony before the grand jury on April 11, 1973, appeared in the Nation's newspapers within a week, although grand jury testimony is required by law to be kept secret. Next, several grossly inaccurate and contradictory versions of my expected testimony before this committee were reported—although the committee's staff confirmed that the newspaper headlines were a serious distortion of the information my attorney, Mr. Bray, gave the committee.

Then on July 4, television, radio, and newspapers reported coast-to-coast that I had agreed to plead guilty. Only a few correspondents even bothered to ask my attorney whether that was true. Despite Mr. Bray's denials, the story was run anyway. And finally, the day after my testimony before this committee in executive session, several inaccurate stories about my testimony appeared.

Today, my testimony will, to the displeasure, I suspect, of many interested onlookers, conflict with these mistaken press reports.

In the 2½ months I have been unemployed, I have tried to review the information I have that can aid this committee in bringing out the full story about the Watergate matter. I believe it would be helpful if I take a moment now to supply some missing links in the testimony of other witnesses, and hopefully clear up some of the confusion and contradictions—at least to the extent of my own knowledge.

I was a staff assistant to Mr. Haldeman. My office was located in the basement of the White House. One of my responsibilities during the President's reelection campaign was to serve as liaison with the Committee To Re-elect the President. It was my job to accumulate all the information I could obtain from members of the White House staff, personnel at 1701, the Republican National Committee and from the campaign personnel in key States and cities.

Periodically, I was to report important political matters to Mr. Haldeman. I wrote him many long reports, entitled political matters memos, describing the current status of pending political matters. He relied on me as the member of his personal staff who would obtain information on campaign matters. Either I would have the answer, or I would get it.

As to the subject of political intelligence gathering, however, John Dean was designated as the White House contact for the Committee To Re-elect the President. I have advised the committee where the documentary proof on this point is located. As a result, my inquiries about political intelligence were slight. Mr. Haldeman seldom had me attend meetings on the subject. He rarely asked me a question about the subject and so I seldom reported about it to him.

Nor did Mr. Dean report to me about all his activities in the area of political intelligence. When the subject of political intelligence was mentioned at a meeting I attended, or when I knew the subject was on the agenda of a meeting I was not invited to attend, I would, as the staff assistant, follow up with the principals and remind them about the subjects discussed. On those occasions when I made such follow-up inquiries with Mr. Haldeman about political intelligence operations, he responded that I should let Dean handle it. When I

followed up with Mr. Dean, he rarely advised me in any detail about the status of intelligence matters. Instead, he dealt directly with Mr. Haldeman.

For example, neither Mr. Haldeman nor Mr. Dean advised me of the series of meetings with Mr. Mitchell, Dean, Liddy, and Magruder. Nor was I invited or informed about Mr. Dean's February meeting with Mr. Haldeman at which Mr. Dean says he told Mr. Haldeman that the Liddy plan was outlandish and that the White House should have no further involvement. Neither Mr. Haldeman, Mr. Dean, nor, for that matter, Mr. Magruder, ever told me of any of those meetings. And I certainly did not attend any of them.

Turning to my duties and reporting activities with the Committee To Re-Elect the President, I found myself in an unusual and not entirely comfortable situation. I was the White House conduit for reporting the activities of 1701, including the activities of Mr. Magruder—the man who shortly before had been my boss at the White House.

Mr. Magruder's reporting practices were marked by two features. First, he considered it a burden to report through me. My role—as Mr. Haldeman intended it—was somewhat of a constraint upon Mr. Magruder's ability to have free rein at the committee, independent of the scrutiny of the White House. As a result, Mr. Magruder frequently tried to avoid the reporting system. When Mr. Magruder did report, he reported as much as possible on successful developments that reflected favorably on his campaign leadership and as little as possible on projects that were not going well. On projects that went smoothly or portrayed him in a good light, Mr. Magruder would often give a full report directly to Mr. Higby or Mr. Haldeman. On ineffective or failing projects he would seldom do more than make brief mention to me on the general subject matter—just enough to protect himself from later criticism that he had withheld information from the White House in case the project went totally sour.

Second, he considered it a serious impairment of his status to report to me rather than to someone more senior, especially since he had previously been my boss at the White House. He asked that I deal with Mr. Reisner, his administrative assistant, whose position on Mr. Magruder's staff corresponded more to my position on Mr. Haldeman's staff. I did increase my contacts with Mr. Reisner and other campaign aides, but continued to insist on dealing directly with Mr. Magruder on many projects.

With respect to the particular subject of political intelligence, Mr. Magruder has testified in very general, carefully hedged, and characteristically vague terms that he assumes he either automatically sent me materials about or called me and gave me a general description of intelligence plans. Had anyone ever heard the details of prostitution, goon squads, kidnapping, and wiretaps, he would be unlikely to forget it. I certainly would not forget it. Mr. Magruder never gave me that information and certainly not those details. Because if he had, I would immediately have passed it on to Mr. Haldeman, I would remember it and I would be here today testifying about it.

By any standard, the meetings at which the Liddy plans were presented were classic examples of poor staff work by the committee and a waste of time. The testimony has been virtually unanimous

that Mr. Mitchell and Mr. Dean were shocked by Liddy's plan; Mr. Magruder's staff man, Gordon Liddy, was apparently quite humiliated, and nothing was approved. In other words, if those meetings were routinely reported to Mr. Haldeman, as evidence of Mr. Magruder's administrative ability and judgment, the January and February meetings would not very likely inspire the confidence of Mr. Haldeman or the President.

Yet, Mr. Magruder testified that "as he recalled" he returned to his office after both these embarrassing meetings and routinely called Mr. Haldeman's staff assistant, me, and told me about his blunder, presumably so that I could inform Mr. Haldeman. That testimony is difficult to reconcile with good sense. Presumably, Mr. Magruder knew that Mr. Dean would report on the meetings to Mr. Haldeman—as Mr. Dean has testified he did—why would Mr. Magruder want two people reporting the same disaster to Mr. Haldeman?

It is true, however, that Mr. Magruder called me after he returned from the March 30, 1972, meeting at Key Biscayne with Mr. Mitchell and Mr. LaRue and reported on about 30 major campaign decisions. Each of these decisions was briefly described in that rather short phone conversation. During this call, he told me, and I am repeating his words rather precisely: "A sophisticated political intelligence-gathering system has been approved with a budget of 300." Unfortunately he neither gave me, nor did I ask for any further details about the subject.

Soon thereafter I wrote one of my regular "political matters" memos for Mr. Haldeman. This particular memo for early April was 8 to 10 pages long with more than a dozen tabs or attachments, but it contained only one three-line paragraph on political intelligence. That paragraph read almost verbatim as Mr. Magruder had indicated to me over the phone. I wrote in the memo to Mr. Haldeman—Again this is almost a quote:

Magruder reports that 1701 now has a sophisticated political intelligence-gathering system with a budget of 300. A sample of the type of information they are developing is attached at tab "H."

At tab "H", I enclosed a political intelligence report which had been sent to me from the committee. It was entitled Sedan Chair II. This report and two others somewhat like it that I had received began with a statement such as, "A confidential source reveals" or "a reliable source confidentially reports." This was followed by a summary of some political information.

In April 1972, I was mainly interested in reporting to Mr. Haldeman on those 30 campaign decisions and other relevant political items. I did not give much thought to what Mr. Magruder meant by "sophisticated political intelligence-gathering system." Nor did I give much thought to the real identity of Sedan Chair II, but I remember that the information dealt with Senator Humphrey's Pennsylvania organization.

However, on June 17, 1972, and afterward, as the news began unfolding about the break-in at the Democratic National Committee, I certainly began to wonder who else but people from 1701 could have been involved. I suspected that maybe the Watergate break-in was part of the sophisticated political intelligence operation Mr. Magruder had

mentioned to me on the phone in early April. And worse, I feared that Sedan Chair II's so-called confidential source might really have been a wiretap, or might in some way have been connected with the Watergate break-in. I immediately tried to call Mr. Magruder so I could have a report for Mr. Haldeman. Mr. Magruder did not return my calls on Saturday and I was not able to reach him until around noon on Sunday, when I again called him in California.

When I finally reached him and began to ask him what he knew about the Watergate break-in, he cut me off and said that he had been on the phone with Mr. Haldeman that morning and the matter was being taken care of.

I doubted that Mr. Magruder had actually spoken with Mr. Haldeman so I called Mr. Higby who clears most calls to Mr. Haldeman. Mr. Higby told me that Mr. Magruder had talked to Mr. Haldeman and that Mr. Ehrlichman was handling the entire matter.

I met with Mr. Haldeman on June 19 or 20 and showed him the April political matters memo that mentioned the intelligence gathering system. After speaking to him, I destroyed that memo and Sedan Chair II, as well as several other documents I have told this committee and the prosecutors about. I also told Mr. Dean that I had destroyed a political matters memo to Mr. Haldeman showing a \$300,000 intelligence budget at the committee and three confidential source memos which I said could possibly have been wiretap reports with the sources carefully camouflaged. I did not tell Mr. Dean that I had, in fact, destroyed wiretap logs, because I was not then sure what they were, I only had suspicions.

I also told the prosecutors in April of this year what specific items I destroyed. And I told them I still suspected Sedan Chair II might have been a wiretap summary. It was not until Mr. Reisner and Mr. Porter testified before this committee in June that I learned Sedan Chair II was not an illegal wiretap, but was, instead, an informer planted in the Humphrey camp. In fact, you will recall that Mr. Magruder's testimony has established that I never received his wiretap data. Nor could I have passed it on to others or shredded a wiretap transcript. He says he made only one copy of the Watergate wiretap log, code-named "Gemstone." He testified that it was so sensitive that he would not let it out of his office.

Turning to matters after the election, I have told the committee that I returned approximately \$350,000 in cash to Fred LaRue. I was not told by anyone, nor did I know what use was being made of this money. I had received the money from the campaign committee on Mr. Haldeman's instructions and, at that time, returning it to Mr. LaRue seemed appropriate since he was the top official left at the committee. I took it to him in December 1972, or January 1973, after I had left the White House staff. This money was the fund I had picked up in April 1972, for the purpose of conducting White House polling. It had not been used to pay polling expenses or originally planned and after the election I had been asking Mr. Haldeman, Mr. Dean, and Mr. Higby what to do with the money.

The delivery to Mr. LaRue was made in two parts, on two occasions. In December or January, after talking to Mr. Dean, I took approximately \$40,000 in two envelopes to Mr. LaRue at his apartment at the Watergate. I lived two blocks away and the delivery was made on my way home from work.

Later, I was asked to return the remainder of the money. I again called Mr. LaRue, who again asked if I could deliver it to his apartment. On this occasion, before picking up the money, Mr. LaRue donned a pair of gloves and then said, "I never saw you," I had been instructed by Mr. Dean to ask for a receipt, so I did, but Mr. LaRue refused saying "You will have to talk to John Dean about that."

At that point I became more than a little suspicious. Frankly, after Mr. LaRue put on the gloves, I did not know what to say—so I said nothing. Nor did I know what to do—so I left. The next day I told Mr. Dean that Mr. LaRue would not give me a receipt for the money. Mr. Dean said he would speak to Mr. LaRue about it. I don't know if he ever got the receipt, but I imagine he tried to follow up on it because I have since learned from Mr. Dean's testimony that it was Mr. Haldeman who asked that a receipt be given.

At no time did Mr. Dean or Mr. LaRue advise me what was being done with the money or that payments were being made to the defendants. Neither of them ever asked me to do or say anything that I can interpret as being part of a coverup.

In fact, there was only one occasion when I was expressly asked to do something that I knew was improper and which I could see was aimed at a coverup. That related to my upcoming grand jury testimony of April 11, 1973, and I refused to do it.

I have not attempted in my statement to describe in detail all of the subjects that I have mentioned. I have provided the committee in executive session with a good deal more of the details surrounding these subjects and I am ready to begin the questioning on these matters.

Senator ERVIN. It is obvious that no member of the committee and no counsel can complete the questioning of Mr. Strachan today and for that reason the committee will stand in recess until 10 o'clock Monday.

[Whereupon at 4 p.m., the committee recessed, to reconvene at 10 a.m., Monday, July 23, 1973.]



MONDAY, JULY 23, 1973

U.S. SENATE,  
SELECT COMMITTEE ON  
PRESIDENTIAL CAMPAIGN ACTIVITIES,  
*Washington, D.C.*

The Select Committee met, pursuant to recess, at 10:05 a.m., in room 318, Russell Senate Office Building, Senator Sam J. Ervin, Jr. (chairman), presiding.

Present: Senators Ervin, Talmadge, Inouye, Montoya, Baker, Gurney, and Weicker.

Also present: Samuel Dash, chief counsel and staff director; Fred D. Thompson, minority counsel; Rufus L. Edmisten, deputy chief counsel; Arthur S. Miller, chief consultant; Jed Johnson, consultant; David M. Dorsen, James Hamilton, and Terry F. Lenzner, assistant chief counsels; R. Phillip Haire, Marc Lackritz, William T. Mayton, Ronald D. Rotunda, and Barry Schochet, assistant majority counsels; Eugene Boyce, hearings record counsel; Donald G. Sanders, deputy minority counsel; Howard S. Liebengood, H. William Shure, and Robert Silverstein, assistant minority counsels; Pauline O. Dement, research assistant; Eiler Ravnholt, office of Senator Inouye; Robert Baca, office of Senator Montoya; Ron McMahan, assistant to Senator Baker; A. Searle Field, assistant to Senator Weicker; Ray St. Armand, assistant publications clerk.

Senator ERVIN. The committee will come to order.

Counsel will proceed to interrogate the witness.

Mr. DASH. Mr. Strachan, in your statement you indicated that you were staff assistant to Mr. Haldeman. Will you please tell us prior to that time what position you held? Did you have any other position at the White House?

**TESTIMONY OF GORDON STRACHAN—Resumed**

Mr. STRACHAN. Yes; I did. From August 3, 1970, until December 1970, I was also staff assistant under Mr. Klein, and I technically reported to Mr. Magruder.

Mr. DASH. What were your duties at that time?

Mr. STRACHAN. Well, I was originally recruited to be what was called a project manager. Particular issues would be assigned to one junior staff man and one senior staff man. For example, in the 1970 election the economy issue was assigned to Mr. Saffire as the senior man, and I was the junior staff assistant on that project.

Mr. DASH. Prior to this last position you stated at the White House, where were you employed?

Mr. STRACHAN. I practiced law in New York for 2 years with the law firm Mudge, Rose, Guthrie, and Alexander.

Mr. DASH. Is that the same law firm with which Mr. Mitchell was associated as a partner?



Mr. STRACHAN. Yes, sir.

Mr. DASH. And it is also the same law firm with which President Nixon was associated at one time as a partner?

Mr. STRACHAN. Yes, sir.

Mr. DASH. Could you then again give us your duties as staff assistant to Mr. Haldeman?

Mr. STRACHAN. Well, the duties changed slightly over the course of the 2 years I worked for Mr. Haldeman. When I first began work I was assigned an office on the third floor of the Executive Office Building, and my responsibilities for the first couple of months were to get all the polling files of the office, which were extensive, in order. Eventually I became for a certain amount of time the personal staff assistant, that is, I would prepare all the papers that would be going to Mr. Haldeman, put them in the correct folders, be they action, FYI, personal, as well as the material that was going to the President that Mr. Haldeman would want to review. I prepared those in folders and took those in to Mr. Haldeman twice a day, usually at noon and then at the end of the day at 6.

Mr. DASH. What were your duties really during the period from January 1972 to June 17, 1973, and thereafter?

Mr. STRACHAN. Well, we shifted Mr. Haldeman's office, shifted location, and moved into the staff secretary complex offices and from January 1 through the election my primary duties were in the area of polling and in the area of political data bank.

Mr. DASH. And, of course, during that time, I think you have stated that you served as the liaison between the White House and I take it specifically Mr. Haldeman and the Committee To Re-Elect the President.

Mr. STRACHAN. It is correct to say I served as the liaison between Mr. Haldeman and the committee. As you might imagine there are very substantial contacts between all members of the White House staff and the campaign organization. So I was the liaison between Mr. Haldeman and the committee.

Mr. DASH. And information that you received from the committee, I take it, was that primarily from Mr. Magruder?

Mr. STRACHAN. Well, I received information from Mr. Magruder, and also from many of the other people on the staff. Mr. Haldeman's particular interests were advertising and polling and I dealt directly with those senior people in those two areas. I also dealt with the people in the political area in order to acquire as much information as I could.

Mr. DASH. What discretion, if any, did you have when you received information from the committee in reporting to Mr. Haldeman?

Mr. STRACHAN. I characterized the discretion as very little.

Mr. DASH. In other words, it was your duty and responsibility to report everything that you learned from the committee to Mr. Haldeman?

Mr. STRACHAN. That is right, or be confident that he would have learned the information from some other source.

Mr. DASH. Now, I take it you carried out that duty to the best of your ability?

Mr. STRACHAN. Yes, sir; I did.

Mr. DASH. Aside from your own dedication, was there any other constraints in seeing to it that you carried out that duty?

Mr. STRACHAN. Well, Mr. Haldeman had a well-deserved reputation as a very, very tough staff man, and there were constant pressures to perform well, and I worked very hard.

Mr. DASH. Would you say or would it be fair to say that Mr. Haldeman, as staff director, and in his own interest in keeping in touch with the Committee To Re-Elect the President, wanted to be on top of all the facts?

Mr. STRACHAN. Yes; that would be a very accurate statement.

Mr. DASH. Could you tell us something about Mr. Haldeman's activities and how he administered the office, and how he performed his role?

Mr. STRACHAN. Well, Mr. Haldeman, is a very organized individual. He had a system, for example, on his telephone where lights would indicate whether he was in his office not to be disturbed or in the President's office or if he would push a green light which would light up on one of his personal aide's phones, then that would be your opportunity to take a matter in to him if you thought it was important enough to bother him.

I would spend as little time as possible in there, not to waste his time. I don't know what else you want.

Mr. DASH. Aside from your own statement that he had passion for the facts, that he was a well-organized person, what was his relationship with other staff members, as staff director? For instance, what was his relationship with Mr. Ehrlichman?

Mr. STRACHAN. Well, he had known Mr. Ehrlichman for a long time. They, I presume, were close friends. They played tennis together, they had direct phone lines to each other. They would walk in and out of each others offices, I would characterize it as a very close relationship.

Mr. DASH. And, to your knowledge, would it be fair to say that they communicated frequently with each other and that if Mr. Haldeman had important information he would be keeping Mr. Ehrlichman informed?

Mr. STRACHAN. I don't know that as a matter of fact but I would surely assume that.

Mr. DASH. What was Mr. Higby's relationship with Mr. Haldeman?

Mr. STRACHAN. Well, Mr. Higby had worked for Mr. Haldeman for, I believe, 4 or 5 years before I joined the White House staff. His title, as distinguished from mine as staff assistant was administrative assistant. He was the senior personal aide to Mr. Haldeman. I think they had a very close personal relationship and personal friendship, spent a lot of social time together.

Mr. DASH. What was Mr. Haldeman's role with regard to the campaign itself?

Mr. STRACHAN. Well, Mr. Haldeman was obviously quite interested in the campaign. He would express his views as to the way certain things would be done. In particular he insisted upon clearing, that is personally approving by initial every piece of advertising, be it radio, TV, bumper strip, whatever went out from the committee.

Mr. DASH. And would it be fair to say that on many important issues of the committee that these issues would be communicated to Mr. Haldeman for his approval—actions of the committee?

Mr. STRACHAN. No; not all matters would be communicated for action. He had very little interest, for example, in what the field organization would be doing. I would advise him on an FYI basis of who had been selected to head the campaigns in the various States but he showed very little interest in that.

Mr. DASH. When you made your reports to Mr. Haldeman, especially those reports that came from the committee, could you briefly tell us, but in some detail, what kind of reports you made? How did you report to Mr. Haldeman?

Mr. STRACHAN. Well, as I mentioned in my opening statement I prepared periodically, usually once a week or once every 2 weeks memorandums entitled "Political Matters Memos."

These memorandums would summarize the information that I had accumulated from the politically active people on the White House staff, Mr. Colson, Mr. Dent, information I had accumulated from 1701, from the various State organizations, he had quite an interest.

Mr. DASH. When you say 1701 what are you referring to?

Mr. STRACHAN. That is the Committee To Re-Elect the President.

He had quite an interest in California so I would talk with the California people, and then I would write a memorandum, usually quite long, 8, 9, 10 pages, with several attachments as backup. The main purpose of attaching the tabs would be that I would refer in the paragraphs to information that I thought he should read in the original form, and would attach it as a tab.

Mr. DASH. Were some of your communications in an oral form rather than in a memorandum form?

Mr. STRACHAN. He prefers to communicate in writing. Of course, I would have oral communications with him but the great bulk of information that he received from me regarding the campaign would be in writing.

Mr. DASH. All right, now, when he received from you a political matter memorandum with the various items indicated, and the tabs, how would he respond to you concerning those items that were brought to his attention by you?

Mr. STRACHAN. Well, he would always read with a pen and he would write his comments beside them or check the item as he read each particular paragraph. Occasionally he would write his views on the political matters memo the paragraph that dealt with the particular subject.

Mr. DASH. In instances, I take it, you would be given, or at least get indications from him, as to what he wanted you to do to follow up on various matters?

Mr. STRACHAN. Well, usually, his comments on the side would be cryptic and humorous. If he had a disagreement as to the way things were being done at the committee, he would send a memorandum to John Mitchell or on occasion to Jeb Magruder, or make a note to me that I should contact a particular individual about something.

Mr. DASH. Now, when, on the basis of any particular information that you presented Mr. Haldeman in the form of, say, a political matters memorandum, he wanted to have a meeting with somebody, would you prepare any particular paper with regard to that meeting?

Mr. STRACHAN. Yes. I would prepare what would be characterized as a talking paper. They were fairly structured, formalized in Mr.

Haldeman's office. Prior to a meeting, for example, with John Mitchell, I would prepare a talking paper of subjects I thought he should cover with him.

Mr. DASH. By the way, when Mr. Haldeman would put a check, I think you mentioned, by an item, what would that mean to you?

Mr. STRACHAN. That would indicate that he had read it.

Mr. DASH. Now, do you recall whether Mr. Magruder, who frequently, I take it, did give you information concerning the Committee for the Re-Election of the President, gave you any information concerning an intelligence plan prior to March 30, 1972?

Mr. STRACHAN. Prior to March 30, 1972?

Mr. DASH. Yes.

Mr. STRACHAN. No; he did not.

Mr. DASH. Now, have you read or heard Mr. Magruder's testimony?

Mr. STRACHAN. Yes; I have.

Mr. DASH. We have the testimony here, but I think I can expedite matters by briefly referring to it. Mr. Magruder did testify that certainly after the February 4, 1972, meeting, he communicated to you about the meeting, about the contents of the meeting, and in fact, sent you copies of the notes or memorandums of the so-called Liddy plan that had been presented to Mr. Mitchell in Mr. Mitchell's office where Mr. Dean, Mr. Magruder, Mr. Liddy met with Mr. Mitchell. Are you familiar with Mr. Magruder's testimony in that regard?

Mr. STRACHAN. Yes; I am.

Mr. DASH. Did Mr. Magruder do that?

Mr. STRACHAN. No; he did not. Mr. Magruder—and I have read his testimony carefully—relies on the fact that automatically, materials would have come over to me. The Federal Bureau of Investigation has established that that is not true. Materials do not automatically come over to me. And in this particular case—

Mr. DASH. How did the Federal Bureau of Investigation establish that that is not true?

Mr. STRACHAN. They interviewed several of his secretaries and people in his office and they indicated that matters were not always sent to Mr. Strachan or to the White House, that they would be held back at the express direction of Mr. Magruder.

Mr. DASH. Would it be true that important matters, matters of significance, would be sent over to you? Would you not agree that a plan such as the so-called Liddy plan to engage in electronic surveillance for political intelligence was a significant matter?

Mr. STRACHAN. Obviously, that is a significant matter, but I think Mr. Magruder probably relied upon the fact that John Dean was present at the meeting to report to the appropriate people at the White House.

Mr. DASH. Could you tell us at this point about that separate relationship? What was Mr. Dean's relationship with Mr. Haldeman as apart from your relationship?

Mr. STRACHAN. Well, Mr. Dean had line responsibility as distinguished from mine of staff responsibility. He would have a certain amount of independent authority and would function on projects on his own and report to Mr. Haldeman and Mr. Ehrlichman on matters on which he needed guidance.

Mr. DASH. All right, now. If Mr. Dean attended an important meeting as the one we have already had ample testimony about, the January 27 meeting in the first instance and the February 4, 1972, meeting in Mr. Mitchell's office in the second instance would you expect that Mr. Dean would, in fact, report that meeting to Mr. Haldeman?

Mr. STRACHAN. Yes; I would think so, because Mr. Dean was aware of the interest over the 6 months previous, interest in political intelligence. And Mr. Dean has testified he reported to Mr. Haldeman about that meeting.

Mr. DASH. Well, what was Mr. Haldeman's interest in political intelligence in the past?

Mr. STRACHAN. Well, it was a subject that I was expected to raise in talking papers and to periodically follow up with John Dean to see that certain individual projects were on track.

Mr. DASH. Were you aware of a particular interest Mr. Haldeman had in political matters, intelligence matters?

Mr. STRACHAN. I am sorry, I do not understand the question.

Mr. DASH. Were you aware of any particular interest that Mr. Haldeman had in being informed about political intelligence matters?

Mr. STRACHAN. Well, he was particularly interested—I think this is the thrust of your question—he was particularly interested in the area of political intelligence and information about Senator Kennedy.

Mr. DASH. Now, you say that Mr. Dean, to your expectation, in fact, did report this meeting. Could you give us a little more description, to your knowledge, of Mr. Dean's relationship to you and to other members of the staff? How did he carry out his responsibilities in making reports and giving factual information to various members of the White House staff?

Mr. STRACHAN. Well, as I say, he had line responsibility, a certain number of staff people under him. He handled conflict of interest matters, would usually have an opinion as to what stand the President should take on legislation, and so forth. My role on Mr. Haldeman's personal staff was to follow up with John Dean on certain matters that he was working with for him. The best example is when John Dean was working on the President's estate plan. I had done research on that subject in private law practice and worked closely with John Dean on that. He would prepare memorandums addressed to Mr. Haldeman and to Mr. Ehrlichman, and I would have a chance to look over those memorandums, but they would go in in their original state.

Mr. DASH. But would Mr. Dean share generally with you the information that he would give to other members of the White House staff, Mr. Haldeman or Mr. Ehrlichman or others?

Mr. STRACHAN. No; not necessarily. Mr. Dean had a remarkable facility, almost that of a litigator, to remember facts and to keep track of which facts which staff members knew or should be informed about.

Mr. DASH. And did you have an opportunity to observe that?

Mr. STRACHAN. Yes; I did.

Mr. DASH. Over what period of time did you experience this remarkable quality of Mr. Dean to recollect and also to separate out who was to receive what facts?

Mr. STRACHAN. Well, I observed that the whole time I was on the White House staff. Whatever the particular subject would be on the President's estate plan, he could keep track of who was handling which tax returns, which people should have access to which parts of which tax returns, very tough questions of fact and internal politics. But most particularly, during the summer of 1972, for example, when he interviewed me regarding Segretti, he had interviewed both me and Chapin. Both of us knew something about the subject, yet John Dean was able to keep which of us knew what perfectly straight.

Mr. DASH. Well, you also said that you believe he probably told Mr. Haldeman because he has testified that he told Mr. Haldeman. Is that based on your opinion or knowledge of Mr. Dean when he makes a statement, whether that is a true statement?

Mr. STRACHAN. Well, I have confidence in John Dean's ability to state the facts as he recalls them.

Mr. DASH. And your knowledge of John Dean's relationship with Mr. Haldeman would lead you to what conclusion concerning his giving Mr. Haldeman all the facts that he had at any one time that he felt Mr. Haldeman ought to have.

Mr. STRACHAN. My opinion would be that John Dean would disclose the facts to Mr. Haldeman.

Mr. DASH. Now, you are also familiar with Mr. Magruder's testimony that after the February 4 meeting and when there was an installation of wiretap equipment in the Watergate or Democratic National Committee headquarters, he showed you at a particular time the so-called Gemstone material. Are you familiar with his testimony regarding that?

Mr. STRACHAN. Yes; I am familiar with his testimony.

Mr. DASH. Did he in fact show you such Gemstone material?

Mr. STRACHAN. No; he did not, and if you read his testimony carefully and previous statements, he did not show me the Gemstone file. His statement is couched with, "As I recall, I called him up; as I recall, he came over;" and "as I recall, he read it."

He told Mr. Ehrlichman within an hour after he talked to the prosecutors that Strachan may have read the Gemstone file and Mr. Ehrlichman's sworn statement is that when he pressed hard in the questioning of Mr. Magruder about that crucial fact, Mr. Magruder answered that he "Could not testify that Strachan had read the Gemstone file."

Mr. DASH. Now, did you ever hear, prior to June 17, the code term "Gemstone?"

Mr. STRACHAN. No; I did not.

Mr. DASH. Why would Mr. Magruder keep from you this very sensitive material? I think his testimony here was that he thought it was so sensitive that he did not, as he would usually, send you the materials but he asked you to come over to the office to see them, and you are right that he said he recalled he did. Would it not be natural that Mr. Magruder would ask you to come see these materials?

Mr. STRACHAN. Well, his testimony that it was too sensitive to send over is inconsistent with his testimony that he sent automatically the budgets over to me. If the budgets contain bugging and wiretapping,

that would strike me as far more sensitive a matter to send through the normal messenger channels than some file which other witnesses have indicated was not patently illegal on its face.

Mr. DASH. In other words, what you are saying is that you never did see the Gemstone file, Mr. Magruder never invited you over to see it, and that prior to March 30, you had no knowledge of any so-called Liddy intelligence plan?

Mr. STRACHAN. That is correct.

Mr. DASH. Now, did that change, at least after March 30?

If it did, could you tell us how it changed?

Mr. STRACHAN. Yes; I was aware that Mr. Magruder would be going down to Key Biscayne to review several campaign decisions that had accumulated during John Mitchell's working on the ITT problem. He called me up in an apparently fairly brief telephone conversation and reviewed the 30 or so pending campaign decisions. I took notes on that telephone conversation and prepared shortly thereafter a political matters memorandum for Mr. Haldeman, summarizing that telephone conversation as well as other information.

Mr. DASH. And what did that include? I mean did it include a Liddy intelligence plan?

Mr. STRACHAN. Yes; Mr. Magruder told me that a sophisticated political intelligence gathering system had been approved and I reported that to Mr. Haldeman.

Mr. DASH. Were you aware that that was one of the items for decision that went down to Key Biscayne with Mr. Magruder?

Mr. STRACHAN. No; I was not.

Mr. DASH. So that it was after he came back that he reported that to you?

Mr. STRACHAN. That is correct.

Mr. DASH. Can you recall approximately when he made that report to you?

Mr. STRACHAN. Well, it was shortly thereafter, I would guess either Friday, March 31, maybe Saturday. My secretary recalls having typed the memorandum on Friday.

Mr. DASH. And it is clear in your mind that Mr. Magruder reported that Mr. Mitchell had in fact approved a sophisticated intelligence plan?

Mr. STRACHAN. Well, I concluded that Mr. Mitchell had approved it. I believe that when Mr. Magruder was going through the decisions and the way I would usually report it to Mr. Haldeman would be that Mr. Magruder reports that Mr. Mitchell has approved the following matters, and I would put a colon, and then I would list the items.

Mr. DASH. But did you do it with regard to this plan?

Mr. STRACHAN. Yes; that was one of the 30 items that was listed.

Mr. DASH. I think in your statement you referred to a sophisticated intelligence system with a budget of 300. Three hundred what?

Mr. STRACHAN. Well, it is \$300,000. On almost all of the memorandums that I wrote to Mr. Haldeman, I would leave off the last three zeroes, because usually the figures that we were dealing with were very, very large.

Mr. DASH. Now, you say that you then prepared a political matters memorandum for Mr. Haldeman, and you included this approved

sophisticated intelligence plan, that \$300,000 budget, in that political matters memorandum.

Do you recall the number of that memorandum?

Mr. STRACHAN. Yes; it was political matters memorandum No. 8.

Mr. DASH. And how many political matters memorandums did you write after that, if you can recall approximately?

Mr. STRACHAN. Well, through the campaign and toward the end of the campaign, they got a little further apart, but I wrote 28.

Mr. DASH. Did you receive any information or indication that Mr. Haldeman, in fact, read the political matters memorandum No. 18 with specific reference to the sophisticated intelligence plan with a budget of \$300,000?

Mr. STRACHAN. Yes; it was Mr. Haldeman's practice when he would read such a memorandum to make notes and check off those paragraphs which he had indicated and then he would write it up in the upper right-hand corner "To Strachan," in this case indicating the memorandum should be returned directly to me, and I would go through his memorandums after he had read them, and this particular one I reread, and noted his checking off of all the paragraphs that I had prepared for him.

Mr. DASH. Was there any other comment besides that particular one?

Mr. STRACHAN. Besides the paragraph that you are concerned about there was simply a blank check.

Mr. DASH. Now, did there come a time shortly afterwards when you were asked to do anything about that particular matter?

Mr. STRACHAN. I am sorry.

Mr. DASH. Did there come a time shortly afterward when you were asked to write either any other paper or memorandum or take any further action with regard to that particular matter?

Mr. STRACHAN. I am sorry, I do not understand the—

Mr. DASH. Well, you testified that you submitted to Mr. Haldeman a report on your political matters memorandum concerning this sophisticated intelligence plan, and then that this was checked off, indicating to you that he had read it. What happened afterward concerning that particular matter? Did that just stay in your file or did Mr. Haldeman take any further action on it to your knowledge?

Mr. STRACHAN. Well, after the memorandum came back out Mr. Haldeman was going to meet with Mr. Mitchell on April 4.

Mr. DASH. How did you learn about that?

Mr. STRACHAN. Mr. Haldeman had a system on his telephones where he could push a button and have one of his personal aides monitor the telephone conversation.

Mr. DASH. Would this be similar to an extension phone where somebody would be asked to get on an extension phone and just listen in?

Mr. STRACHAN. Well, it would be different from an extension phone because you could not detect the fact that it was picked up, and there was no way that the person listening on the phone could make any noise either by talking or by a secretary typing to indicate that there was someone else on the phone.

Mr. DASH. How were you notified or how was it indicated to you that you were to pick up the line?



Mr. STRACHAN. Well, there was a button on the call director phone that I had which would buzz when I was to pick that line up, and I pushed down the button and began listening to the conversation usually at that time which was already in progress.

Mr. DASH. All right. In this particular case now with a call, I take it, you are testifying to Mr. Mitchell, could you tell us, having picked up the line, what you heard?

Mr. STRACHAN. Well, Mr. Mitchell indicated that he was either going to return or had returned from Florida, and Mr. Haldeman jokingly said, "Well, that is clearly a mistake. You ought to stay down there and vacation some more," and Mr. Mitchell indicated that "Well, we had better get together and talk about some matters." Haldeman asked him if 3 o'clock that day would be convenient.

Mr. DASH. And that day was when?

Mr. STRACHAN. April 4.

Mr. DASH. 1972?

Mr. STRACHAN. 1972.

Mr. DASH. And was there, in fact, a meeting on April 4, 1972, between Mr. Haldeman and Mr. Mitchell?

Mr. STRACHAN. Well, I did not attend the meeting so I could not testify that there was in fact but I prepared a talking paper for the meeting and we would prepare a folder which would include the talking paper, and the talking paper went into his office and came back out afterwards.

Mr. DASH. All right.

Now, in this talking paper, did you include the item of the sophisticated intelligence plan with a budget of \$300,000?

Mr. STRACHAN. Yes. In most talking papers I would frequently pose the question is the intelligence system adequate? Is the proposal on track, just to get the conversation going on the subject, and in this particular one I did include that paragraph.

Mr. DASH. Now, prior to that meeting and when you were preparing that talking paper, was there any other political intelligence plan operative or being considered to your knowledge?

Mr. STRACHAN. No; not to my knowledge.

Mr. DASH. Did you receive back that talking paper after you had given it to Mr. Haldeman?

Mr. STRACHAN. Yes, I did.

Mr. DASH. And to your knowledge, was there any indication as to whether all the items on the talking paper had been discussed?

Mr. STRACHAN. Well, usually if a matter had not been discussed he would indicate that it should be raised again. In this case it was not raised again, indicating that he would have covered the subject.

Mr. DASH. What did you do with that talking paper then when you received it back?

Mr. STRACHAN. I put it back in the file with the political matters memo 18 files.

Mr. DASH. And there was no indication from Mr. Haldeman that he had either not discussed it or it needed any further action on your part?

Mr. STRACHAN. That is correct.

Mr. DASH. Now, did there come a time after that meeting between Mr. Mitchell and Mr. Haldeman, and also in the same month of April,

that Mr. Haldeman asked you to give some communication to Mr. Gordon Liddy?

Mr. STRACHAN. Yes. Mr. Haldeman called me up into his office. I carried a clipboard and he told me to contact Mr. Liddy and tell him to transfer whatever capability he had from Muskie to McGovern with particular interest in discovering what the connection between McGovern and Senator Kennedy was.

Mr. DASH. Was that the limit of the instruction that you had?

Mr. STRACHAN. Yes, sir.

Mr. DASH. What did you do with that instruction? Did you make a record of it?

Mr. STRACHAN. Well, I had taken notes as he had dictated that to me. I walked down to my office, called Gordon Liddy, had him cleared into the White House, had him come over to my office, and literally read the statement to him.

Mr. DASH. When he came into your office could you describe what Mr. Liddy did, if anything?

Mr. STRACHAN. Yes. Mr. Liddy reached over and turned on the radio. [Laughter.]

Mr. DASH. Do you know why he did that?

Mr. STRACHAN. Well, I have heard descriptions later that is what you do if you want to drown out and prevent a bug from picking up the conversation.

Mr. DASH. Did you in fact have any bug in the room at that time?

Mr. STRACHAN. I have no way of knowing. [Laughter.]

Mr. DASH. At least to your knowledge that you hadn't installed one yourself?

Mr. STRACHAN. No; not that I installed.

Mr. DASH. Now he turned on the radio and how did you communicate the Haldeman message to Mr. Liddy?

Mr. STRACHAN. I said that Mr. Haldeman had asked me to give him this message, and read it to him.

Mr. DASH. In other words, you read it almost word for word as you got it from Mr. Haldeman?

Mr. STRACHAN. Yes, I opened my clipboard and just read it.

Mr. DASH. And you didn't give any further explanation as to what you meant by transfer his capabilities from Mr. Muskie to Mr. McGovern. What capabilities?

Mr. STRACHAN. No.

Mr. DASH. Did you know what capabilities he was referring to?

Mr. STRACHAN. No, I didn't except I suspected that there were plants in Muskie's campaign. It was fairly common knowledge that Muskie's driver was either in the pay of the CRP or supplying information to us. I presumed that these employees would be transferred over to Senator McGovern.

Mr. DASH. We know already from the testimony, even from Mr. Mitchell, that the so-called March 30 Liddy plan included fairly sophisticated electronic surveillance plans and, as you have indicated, it was that plan that Mr. Magruder said was approved by Mr. Mitchell which you submitted to Mr. Haldeman. With that kind of knowledge, would you also now assume that those capabilities could also have included electronic surveillance?

Mr. STRACHAN. Well, it's quite an assumption, but I think you would have to make it.

Mr. DASH. Did Mr. Liddy ask you any questions of what did you mean or did he seem to understand what that message meant?

Mr. STRACHAN. Oh, he seemed to understand and didn't spend very much time and left.

Mr. DASH. And left.

Did you learn anything afterwards as to what he did or did not do?

Mr. STRACHAN. No, I did not.

Mr. DASH. Was any further report made through you to Mr. Haldeman concerning whether he carried out that mission?

Mr. STRACHAN. No, not through me.

Mr. DASH. Now, if Mr. Haldeman actually wanted Mr. Liddy to have that instruction and asked you to communicate that to Mr. Liddy, I take it Mr. Haldeman would be interested in seeing that instructions of his were carried out.

Mr. STRACHAN. That is correct.

Mr. DASH. I think you have indicated that Mr. Haldeman was very well organized and wanted to have all the facts.

Would you be the only one, the only avenue or conduit through which a communication back—as to whether Mr. Liddy had followed that instruction would get back to Mr. Haldeman?

Mr. STRACHAN. No. The information could have come back through a variety of channels.

Mr. DASH. Would you assume that Mr. Haldeman would have pursued that and that a communication would have gotten back to Mr. Haldeman? I ask that with respect to your personal knowledge of Mr. Haldeman's working habits and what Mr. Haldeman did when he sent a communication and what he expected after he sent a communication for a particular action.

Mr. STRACHAN. Well, Mr. Haldeman would normally follow up on particular matters. Whether he would get a report back on all messages that he delivered, frequently he just assumed something was going to be done, and that he would not have to follow up on it.

Mr. DASH. If he gave orders for something to be done and they weren't done, what was Mr. Haldeman's usual reaction?

Mr. STRACHAN. Well, to his personal aides he would explain his dissatisfaction in no uncertain terms.

Mr. DASH. Now, when was the first time that you heard about or learned of the break-in of the Democratic National Committee headquarters of the Watergate on June 17, 1972?

Mr. STRACHAN. I was sitting in my car outside Rodman's Drug Store, my wife was out shopping and I heard it on the radio.

Mr. DASH. What passed through your mind when you heard that news?

Mr. STRACHAN. Shock, disbelief, surprise.

Mr. DASH. What did you do?

Mr. STRACHAN. Well, I drove to the White House to get a telephone number for Mr. Magruder in California, to call him and find out if he knew anything about it.

Mr. DASH. Did you reach Mr. Magruder?

Mr. STRACHAN. No, I did not.

Mr. DASH. Did you later learn from Mr. Magruder anything about this event?

Mr. STRACHAN. Well, I called him that afternoon and then tried to call him again that evening, and did not reach him. Placed a third call on Sunday about noon, Washington time, and asked him if he knew anything about this since I had rather expected a phone call from Mr. Haldeman, and he said "Don't worry about it, I have been on the phone this morning with Bob, and you needn't know anything about it."

Mr. DASH. All right. What did you do after that?

Mr. STRACHAN. I called Mr. Higby, because I didn't really believe that Magruder had talked to Mr. Haldeman, Haldeman was down in Key Biscayne. Mr. Higby told me yes, in fact Magruder had talked with Mr. Haldeman and Mr. Ehrlichman was handling the entire matter.

Mr. DASH. All right. Now, at that point were you concerned about any particular thing?

Mr. STRACHAN. Pardon?

Mr. DASH. At that point having learned that Mr. Haldeman now had spoken to Mr. Magruder and was informed, did a concern come into your mind?

Mr. STRACHAN. Yes, I expected over the entire weekend Mr. Haldeman to call me and ask me what I knew, if I knew anything why I had not reported it to him, the usual very tough questions he would ask.

Mr. DASH. Did you begin at that time to suspect any problem that Mr. Haldeman may have with regard to this?

Mr. STRACHAN. Well, you have to draw one of three conclusions: Either he knew about it ahead of time; either he didn't expect me to report to him, or he had received a report and had calmed down.

Mr. DASH. Did you arrive at any one conclusion?

Mr. STRACHAN. It was either one of the latter two, either he knew or he didn't expect me to report to him.

Mr. DASH. What did you do after you learned that he had heard about it, what did you do yourself?

Mr. STRACHAN. I didn't do anything. The White House logs indicate that I was in the White House for a minute Sunday, I don't know what that was for.

The next day, Monday—

Mr. DASH. Monday was June 19, 1972?

Mr. STRACHAN. That is correct.

Mr. DASH. All right.

Mr. STRACHAN. I began going through my files, Mr. Haldeman's files, to see if there were any indications of any information that would be in any way related to this act.

Mr. DASH. Well, did you come to any conclusion as to whether there was anything in the files that would be in any way related?

Mr. STRACHAN. Yes. I pulled out several documents, most particularly the political matters memorandum No. 18.

Mr. DASH. And that was the one that referred to the sophisticated intelligence plan?

Mr. STRACHAN. That is correct.

Mr. DASH. Did you also pull out that memorandum or these little notes that you had taken concerning the communication that you had from Mr. Haldeman to contact Mr. Liddy about his capabilities being switched from Muskie to McGovern?

Mr. STRACHAN. Well, I pulled that document out but I did not take that up to Mr. Haldeman.

Mr. DASH. All right.

Now, what did you believe at that time when you took the document out?

Did you believe that a break-in at the Democratic National Committee headquarters was in fact related to this plan?

Mr. STRACHAN. I didn't know for sure, but I had pretty strong suspicions.

Mr. DASH. Did you meet with Mr. Haldeman shortly after you pulled that file out?

Mr. STRACHAN. Yes, I did.

Mr. DASH. Could you tell us when?

Mr. STRACHAN. I believe it was the morning of June 20. He had returned from Florida, I had given a note to Mr. Higby that I thought I should see Mr. Haldeman. Mr. Haldeman summoned me to his office, and I walked in with the political matters memorandum.

Mr. DASH. I think you had indicated that you were somewhat concerned about Mr. Haldeman's reaction to you about not being informed. Were you still concerned when you met with Mr. Haldeman on June 20?

Mr. STRACHAN. Yes, I was scared to death. I thought I would be fired at that point for not having figured that out.

Mr. DASH. Were you fired or did he berate you?

Mr. STRACHAN. No, he did not berate me. He said almost jokingly, "Well, what do we know about the events over the weekend?" And I was quite nervous and retreated to sort of legal protective terms and I said, "Well, sir, this is what can be imputed to you through me, your agent," and opened the political matters memorandum to the paragraph on intelligence, showed it to him. He acknowledged his check and that he had read that, and said that he had not read the tab, which had been attached, turned, began reading it, said, maybe I should have been reading these, these are quite interesting, and read the tab.

Mr. DASH. What tab was that?

Mr. STRACHAN. That was Sedan Chair II.

Mr. DASH. Then what, if anything, did you tell him or did he tell you after he had gone through this memorandum again?

Mr. STRACHAN. He told me, "Well, make sure our files are clean."

Mr. DASH. What did that mean to you?

Mr. STRACHAN. Well, I went down and shredded that document and others related.

Mr. DASH. Now, did you do that on your own initiative as such, or did you feel that you were making sure that you were following Mr. Haldeman's instruction that you should make sure the files are clean?

Mr. STRACHAN. No, I believed I was following his orders.

Mr. DASH. And you shredded all of No. 18, the political matters memorandum No. 18?

Mr. STRACHAN. That is correct.

Mr. DASH. What about the memorandum that you had made on the communication with regard to Mr. Liddy?

Mr. STRACHAN. Yes, I shredded that also.

Mr. DASH. Were there any other documents that you shredded?

Mr. STRACHAN. Yes, I did go through and make sure our files were clean. I shredded the talking paper between Mr. Haldeman and Mr. Mitchell on April 4, I shredded a reference to Mr. Segretti, I shredded Mr. Segretti's telephone number.

Mr. DASH. What reference was that to Mr. Segretti?

Mr. STRACHAN. Well, there had been a dispute between whether or not Mr. Segretti should continue out in the field functioning somewhat independent. Mr. Magruder wrote a memorandum to Mr. Mitchell entitled "Matter of Potential Embarrassment" in which he described this individual in the field and how that individual should be under the direction of Mr. Liddy. Mr. Mitchell had a copy of that and Mr. Haldeman had a copy of that. And Mr. Haldeman had told me to call up Mr. Segretti and to tell him to expect a call and his directions from Mr. Liddy. I shredded that memorandum also.

Mr. DASH. Were there any other documents that you shredded?

Mr. STRACHAN. Well, we gave the committee a list.

Mr. DASH. You may have stated, but did that include the talking paper that you had prepared for Mr. Haldeman for his meeting with Mr. Mitchell on April 4?

Mr. STRACHAN. Yes, I think I said that that was one of the items.

Mr. DASH. Now, after you shredded these papers on the 20th of June 1972, did you inform anybody that you had done this?

Mr. STRACHAN. Yes, I went over to John Dean's office and gave him a list orally of the documents that I had shredded and told him that those had been Mr. Haldeman's instructions.

Mr. DASH. Why did you inform John Dean?

Mr. STRACHAN. Well, John Dean was, as you know, the counsel to the President and the man who would presumably be handling this problem.

Mr. DASH. Did you inform anybody else?

Mr. STRACHAN. No.

Mr. DASH. Now, have you since had an opportunity to go through the White House records to look at the various memorandums that you have prepared in the past?

Mr. STRACHAN. Yes, I have gone back into an Executive Office Building office, room 522, to go through the files.

Mr. DASH. And did these files still have the political matters memorandum that you had prepared for Mr. Haldeman?

Mr. STRACHAN. Well, they contained all political matters memorandums except No. 18.

Mr. DASH. 18 was missing?

Mr. STRACHAN. That is right.

Mr. DASH. So you reaffirmed the fact that you had destroyed 18?

Mr. STRACHAN. Well, I did not forget that.

Mr. DASH. No. It had not been replaced, anyway?

Mr. STRACHAN. No.

Mr. DASH. Now, later, did you ever inform Mr. Haldeman that you wanted to make sure that the files were clean or that you had destroyed, in fact, the particular files that you were worried about?

Mr. STRACHAN. Yes. On July 1, I was invited to go out with the Presidential party on Air Force One. There were going to be a series of discussions out there with Mr. MacGregor and Mr. Malek regarding

the campaign. I had done a political matters memo for the preceding 2 weeks and I joined Mr. Haldeman and Mr. Higby on that flight. At that time, I reviewed both the most recent political matters memorandum and the fact that I had in fact made sure the files were clean.

Mr. DASH. What was Mr. Haldeman's reaction, if anything, when you told him that you had destroyed No. 18?

Mr. STRACHAN. I do not think he said anything. I just reported it as a matter of fact and we went on to something else.

Mr. DASH. And to your recollection, he accepted that as a matter of fact?

Mr. STRACHAN. Well, I would remember if he had told me that was a very stupid thing to do.

Mr. DASH. Now, was there any discussion as to how many copies of these memorandums in the future should be made?

Mr. STRACHAN. Yes; he asked me how many copies of the political matters memorandum had been prepared and I told him three, and he told me at that time to cut the number down to two.

Mr. DASH. Who received these copies? There were two, one for him and one for who?

Mr. STRACHAN. Well, one for Mr. Haldeman and one for me.

Mr. DASH. Now, after this event, and after, of course, the break-in at Watergate, what was your relationship with the Committee To Re-Elect the President? Did it continue, and did you continue as liaison?

Mr. STRACHAN. Yes, it did. I had talked with Mr. Malek on the trip out to California and he talked to Mr. MacGregor about how good I thought Bob Reisner was as an administrative assistant and the decision was made to move Bob Reisner to become Clark MacGregor's administrative assistant and I continued to work very, very closely with Mr. Reisner.

Mr. DASH. Did you have any responsibilities to report to Mr. Haldeman concerning the Watergate affair?

Mr. STRACHAN. None.

Mr. DASH. I take it that after the break-in, the so-called Watergate affair became an important matter of concern in the campaign?

Mr. STRACHAN. Well, everybody followed it rather closely.

Mr. DASH. And I take it various meetings were held, and I think that we've had considerable testimony from a number of witnesses concerning the meetings just after the break-in through June, the latter part of July and August. Were you aware of those meetings?

Mr. STRACHAN. No, not really. I certainly never attended any. I don't think I was specifically aware that they were having all these meetings on what has turned out to be the Watergate matter.

Mr. DASH. Were you aware of an interchange of information, let me say between Mr. Dean, Mr. Magruder, Mr. Mitchell, Mr. Mardian, Mr. LaRue, and then on the other side, Mr. Haldeman and Mr. Ehrlichman, involving these meetings?

Mr. STRACHAN. No, I don't think so and that sort of goes to the point of how Dean could keep all facts and people sort of in order. I don't think he ever told me that he was having all these meetings.

Mr. DASH. So as you testified earlier with regard to the meeting back on February 4 and also January 27, when Mr. Dean was present, Mr. Haldeman would rely on Mr. Dean's report and it was not necessary for you to be that messenger of the information. So it happened after-

wards, when Mr. Dean attended all these meetings over at the committee, he would be the one that would communicate this information to Mr. Haldeman if anybody did?

Mr. STRACHAN. That is correct, and I would guess that he would report directly rather than through me or one of his aides. But I didn't know that for a fact.

Mr. DASH. Now, did there come a time when you became aware of a transfer of \$350,000 from the Committee To Re-Elect the President to Mr. Haldeman or the White House under Mr. Haldeman's control?

Mr. STRACHAN. Yes. The subject had been discussed for a couple of months before that.

Mr. DASH. What time now are we talking about?

Mr. STRACHAN. This would be from December 1971 through April 1972. Mr. Haldeman—his office conducted extensive polling—and he told me at one point, when I was having discussions with Mr. Kalmbach, to make sure that we have an ample supply of cash to pay for these polls.

I talked with John Dean about it, tried to arrange for John Dean a method for holding the money. He eventually told me that he could not do it.

On April 6, I prepared a memorandum for Mr. Haldeman saying that we are going to get that money from the committee before the new finance law and we have to get it very soon; John Dean can't make arrangements. You have four other alternatives. He checked the one indicating that I should go and pick up the money.

Mr. DASH. Which one was that?

Mr. STRACHAN. Alex Butterfield had a friend who would hold the money. And I went and got the money, brought it back to Alex, and presumably—

Mr. DASH. When you say went and got the money, where did you go?

Mr. STRACHAN. I went over to 1701, to the Committee To Re-Elect the President, either Mr. Kalmbach's office or to Mr. Sloan's office.

Mr. DASH. Was this in cash?

Mr. STRACHAN. Yes, it was.

Mr. DASH. And you returned it back to the White House?

Mr. STRACHAN. That is correct.

Mr. DASH. You turned it over to Mr. Butterfield?

Mr. STRACHAN. Well, I eventually turned it over to him. I walked into his office and the two of us began counting it and he said he would get it to his friend.

Mr. DASH. Actually, what was that money for? Was that for the command or the disbursement of Mr. Haldeman?

Mr. STRACHAN. Pardon?

Mr. DASH. Was this money that was taken over to the White House and turned over to Mr. Butterfield and then to his friend, was the disbursement of that money really at the discretion of Mr. Haldeman?

Mr. STRACHAN. Definitely.

Mr. DASH. Now, did you become aware of the fact that any money was in fact spent from that \$350,000?

Mr. STRACHAN. Yes. Somewhere around the time of the Hanoi-Haiphong bombing, Mr. Howard came to me and indicated that Mr. Colson had an approved advertisement—I believe it was under the aus-



pices of Tell It To Hanoi, but in any event, it concerned indicating public support for the bombing and mining decision. Mr. Howard said that Mr. Colson needed \$22,000 and I asked Mr. Haldeman if we should authorize that expenditure. He said yes, and the money was delivered.

Mr. DASH. Now, did there come a time when the \$350,000, or what was left of it, was returned to the Committee for the Re-Election of the President, or to a particular person there?

Mr. STRACHAN. Well, we should back up a little, I think. After the election, I got the money back from Mr. Butterfield and——

Mr. DASH. Why did you get it back from Mr. Butterfield after the election?

Mr. STRACHAN. Because Mr. Haldeman had told me to return the money to the committee.

Mr. DASH. Then what happened?

Mr. STRACHAN. Then John Dean told me that he wanted to have the \$350,000 intact and Fred Fielding gave me \$22,000, which I placed with the \$320,000——

Mr. DASH. Well, let's back up a bit here. You said John Dean told you he wanted the \$350,000 intact. Was there any specific incident or event at that time when Mr. Dean communicated that to you?

Mr. STRACHAN. Yes.

Mr. Dean had told me. Chapin and me that Earl Silbert from the prosecutor's office wanted to interview us and that that interview was scheduled on November 28, and Mr. Dean indicated that one of the questions might be whether or not the \$350,000 was in fact intact.

Mr. DASH. All right, now. You said Mr. Fielding brought back the \$22,000.

Do you know where Mr. Fielding obtained that \$22,000?

Mr. STRACHAN. Well, I assumed at the time that he had received it from Mr. Stans. I have read his deposition. I don't personally know where he got the money.

Mr. DASH. Were you aware at any time that Mr. Dean had received any large sum of money, specifically around \$15,200, from the unspent amount of the \$22,000 that had originally been taken out of the \$350,000?

Mr. STRACHAN. Yes, there is some confusion as to that amount Dick Howard and I did go to John Dean's office and give him some cash in an envelope. I don't think any of the three of us counted it. I always thought it was \$7,000, but either \$7,000 was spent on the ads and \$15,000 was left, or \$15,000 was spent on the ads and \$7,000 was left.

Mr. DASH. I think we have Mr. Dean's testimony that he at least received \$15,200, and I take it that it would be in his interest to have given a lesser sum, so——

Mr. STRACHAN. Oh, I wouldn't dispute Mr. Dean's account, for sure.

Mr. DASH. So I take it he did receive \$15,200.

Can you tell us why you brought this balance or this amount back to Mr. Dean when it had been taken originally from the \$350,000 pot?

Mr. STRACHAN. Well, at that time, I was asking Mr. Dean how to get the money back to the committee and it was just another problem that he would have to cope with.

Mr. DASH. So you just turned it over to him?

Mr. STRACHAN. That is correct.

Mr. DASH. Now, did you play a role in seeing to it that this money did get back?

Mr. STRACHAN. Yes.

Mr. DASH. Could you tell us specifically what you did and to whom you gave the money?

Mr. STRACHAN. Well, Mr. Dean called me and asked me to call Mr. LaRue. I called Mr. LaRue and he asked me if I could bring the amount which John Dean had specified to him at his apartment that evening on the way home from work. Mr. LaRue was the senior campaign official at the Committee To Re-Elect the President, and I decided that I would drop it by at his apartment.

Mr. DASH. How much was it that you received?

Mr. STRACHAN. Well, my recollection is that it was \$40,000. I know John Dean has testified that it was either \$40,000 or \$70,000 and Mr. LaRue has said it was \$50,000.

Mr. DASH. Did there come a time when you actually delivered the balance to Mr. LaRue?

Mr. STRACHAN. Yes, I did.

Mr. DASH. Who instructed you to do that?

Mr. STRACHAN. I wasn't instructed to do that, really. Again, Mr. Dean called me and said, "Well, it is time we get the balance back to the committee. Why don't you call Mr. LaRue?" I called Mr. LaRue; he said, "Can you drop it by at my apartment?" I said "Yes."

John Dean said get a receipt for the entire amount.

So, I went to Mr. LaRue's apartment, gave him the money, asked him for a receipt. He said, "You will have to talk to John Dean about getting a receipt, I will not give you one."

Mr. DASH. Is this the time when, in your statement, you indicated that Mr. LaRue put on gloves to take the money out of the bag?

Mr. STRACHAN. Yes, that was the occasion.

Mr. DASH. After he did that did you find it somewhat unusual to ask him for a receipt? [Laughter.]

Mr. STRACHAN. Well, I was quite surprised but those had been my instructions to ask for a receipt.

Mr. DASH. And you did?

Mr. STRACHAN. So I asked for a receipt.

Mr. DASH. And you didn't get any?

Mr. STRACHAN. No, I didn't.

Mr. DASH. Now, were you aware at any time that that money was being used for the payment of the legal fees for the defendants in the Watergate case and the support of their families?

Mr. STRACHAN. No, I was not, and I was quite surprised to learn about it because—

Mr. DASH. When did you first learn about it?

Mr. STRACHAN. In the press, because within a couple of weeks or a month before I delivered it to Mr. LaRue I had talked about the money

with Earl Silbert. If you were going to take money to give to the defendants you surely wouldn't take money that the prosecutors would know about.

Mr. DASH. Who knew that you were talking to Earl Silbert? I think you mentioned Mr. Dean knew.

Mr. STRACHAN. Mr. Dean was present; yes, sir.

Mr. DASH. So then, was this another case in which the lines of communication excluded you, at least, as a party to the communication?

Mr. STRACHAN. To whom?

Mr. DASH. Is this another case in which the lines of communication, specifically with regard to the use of this money for legal defense funds, excluded you as one of the persons receiving the communication?

Mr. STRACHAN. That is correct.

Mr. DASH. Were you interviewed by the FBI in August of 1972?

Mr. STRACHAN. Yes.

Mr. DASH. Did anybody talk to you prior to your interview with the FBI at that time?

Mr. STRACHAN. Yes. Mr. Chapin was also going to be interviewed the same day by the FBI and Mr. Dean knew that—I mean we didn't learn directly from the FBI. Mr. Dean called us up and said we would be interviewed by the FBI and we went over to his office, maybe an hour before the FBI interview.

Mr. DASH. Did Mr. Dean say anything?

Mr. STRACHAN. Yes. I assumed Chapin had talked to Dean about Segretti. I know I had talked to Dean about Segretti before that. We reviewed those facts. He indicated to me that "Don't necessarily volunteer anything to the FBI, but make sure that your statement to them is absolutely correct."

Mr. DASH. Going back just briefly on the transfer of the money. Did Mr. Haldeman know that you had returned that money at the request of Mr. Dean to Mr. LaRue?

Mr. STRACHAN. Well, he didn't know from me at that time. It wasn't until later that I told him that I had returned the money to Mr. LaRue at Mr. Dean's instructions.

Mr. DASH. And did you get an indication from him that he had authorized that transfer?

Mr. STRACHAN. Well, he said, "Obviously you wouldn't have done it unless you thought Mr. Dean was speaking for me."

Mr. DASH. What did you conclude from that?

Mr. STRACHAN. That I had not taken the money to the wrong person.

Mr. DASH. And that you weren't in trouble again at all with Mr. Haldeman for doing that?

Mr. STRACHAN. That is correct.

Mr. DASH. Did you testify before the grand jury in April of 1973?

Mr. STRACHAN. Yes.

Mr. DASH. Did anyone speak to you concerning your testimony prior to your testimony?

Mr. STRACHAN. Yes. I talked to Mr. Haldeman before my grand jury testimony.

Mr. DASH. What, if anything, did he say? What was the nature of that discussion?

Mr. STRACHAN. Well, I had drawn up a list of what I considered to be tough questions, and I went through them with him, and he told me to make sure that I answered the absolute truth.

Mr. DASH. Did Mr. Magruder speak to you prior to the April testimony that you gave to the grand jury?

Mr. STRACHAN. Yes. On March 28, Mr. Magruder called me and asked if he could see me. I said I didn't think it was a particularly good idea. He insisted, said he had to talk to me, could he come over to my home that evening. I finally agreed and he came to my home.

Mr. DASH. And just briefly give us the nature of the conversation.

Mr. STRACHAN. Well, he walked in. In his arm he had what he indicated to me were the transcripts of his trial testimony and his grand jury testimony, and he said—

Mr. DASH. Did he tell you, that it was his grand jury testimony? The grand jury testimony of when?

Mr. STRACHAN. I am not sure when but he had a package of documents which he indicated were testimony before the trial and the grand jury. When I later mentioned the matter to John Dean his answer was, "I never understood where Magruder got his grand jury transcript."

Mr. DASH. What did he tell you when he walked in with the so-called grand jury testimony and his trial testimony?

Mr. STRACHAN. He told me that the prosecutors were after him on perjury, they were not believing him, and he asked me if I would corroborate part of his story and convince the prosecutors that the story that Mr. Magruder had told was valid.

Mr. DASH. What particular part? Could you be more specific? What did Mr. Magruder want you to cooperate with that would involve you?

Mr. STRACHAN. Mr. Magruder asked me to testify that I had talked to him about Mr. Liddy and had interceded on Mr. Liddy's behalf so that Mr. Magruder would not fire Mr. Liddy.

Mr. DASH. And do you know what time he was speaking about. We have had testimony concerning an altercation when Mr. Magruder and Mr. Liddy prior to the March 30 meeting in Key Biscayne, at which time I think Mr. Magruder testified he was about to fire Mr. Liddy and I think he has testified you called him and asked him not to do so because "We still needed Mr. Liddy for his intelligence operation." Was that the conversation that he was asking you to recall and to support him on?

Mr. STRACHAN. I imagine so. That is clearly the time frame.

Mr. DASH. Well, what was your reaction. Did you say that you would corroborate him on that?

Mr. STRACHAN. No. He was quite distraught. He made the plea to me on the basis of his family, very impassioned, how serious the consequences were, and I just didn't give him an answer. I just said "Jeb, I don't know." I was nervous about the meeting. He continued to call me the next week. Eventually on April 8, he called about four times when I was away from my home, and I decided to call him back, and I told him that, no, I could not corroborate that story. It was not the way I remembered it and I could not testify to that.

Mr. DASH. Did you ever intervene on Mr. Liddy's behalf with Mr. Magruder?

Mr. STRACHAN. No, not with Mr. Magruder. The incident, I believe, and I believe I learned this from Mr. Liddy, that he did not get along with Mr. Magruder and Mr. Liddy asked if he could report to Mr. Haldeman. I knew that to be impossible but said I would check. I called John Dean and I said "John, do you know that Magruder and Liddy are having a dispute and that Mr. Liddy wants to report to Mr. Haldeman." John Dean suggested that since I was going to have to prepare a memorandum for Mr. Haldeman that I suggest that Mr. Haldeman call John Mitchell and have Mr. Liddy report to Mr. Mardian. I prepared the memorandum for Mr. Haldeman, summarizing the recommendation from John Dean. It came back from Mr. Haldeman and instead of approved, disapproved, comment, he had written in the margin "Let Dean handle." So I called John Dean up and I said "Well, the recommendation didn't get accepted. Mr. Haldeman's instructions are that you should handle the problem."

Mr. DASH. I have no further questions, Mr. Chairman.

Senator ERVIN. Mr. Thompson.

Mr. THOMPSON. Mr. Strachan, how often did you present these political action memorandums to Mr. Haldeman?

Mr. STRACHAN. Well, I presented them to him as often as weekly. If something extraordinary came up, that would slip to 3 or 4 weeks.

Mr. THOMPSON. How many documents did you usually present at a time or how many pieces of paper?

Mr. STRACHAN. Well, usually the political matters memorandum in the original form would be 8 to 10 pages, and the tabs attached to it would make the entire document maybe three quarters of an inch thick—an inch thick.

Mr. THOMPSON. Besides those memorandums and the talking papers were there any other papers you submitted to him on a regular basis?

Mr. STRACHAN. Oh, yes, I submitted memorandums on polling. If I took a telephone call for him I would put a memorandum to him and say, "I talked to the individual you didn't want to talk to," that kind of thing.

Mr. THOMPSON. Could you give us some sort of estimate on a weekly or bi-weekly basis of how many pieces of paper you might submit to him with regard to those matters other than political matters, memorandums and other than talking papers. A rough estimate of paper flow in an average week or 2-week period?

Mr. STRACHAN. Quite substantial. Usually I would have one or two memos in his action folder each day, in his FYI folder.

Mr. THOMPSON. How many pages would they be?

Mr. STRACHAN. Usually just a page.

Mr. THOMPSON. All right, and you were one of his aides. Who were his other aides during the period of time from January on up through the election?

Mr. STRACHAN. Well, originally there was just Mr. Higby. Then Mr. Kehrli joined the staff, than I joined the staff. When the staff was reorganized on January 1, 1972, Mr. Kehrli became staff secretary, and I assumed the role that he had been playing for Mr. Haldeman, that is, taking the papers in daily to him, still with Mr. Higby. Another individual, George Collins, was added in July 1972, and then eventually another personal aide was added close to the election, Mr. O'Donnell, who was going to take over the assignment some of us had had.

Mr. THOMPSON. So at the time of the election there were besides yourself, four other aides which he had working for him directly under him?

Mr. STRACHAN. If you count Mr. Kehrli in that group.

Mr. THOMPSON. Higby, Kehrli, Collins, and O'Donnell.

Mr. STRACHAN. At the time of the election, correct.

Mr. THOMPSON. What was Mr. Higby's job?

Mr. STRACHAN. Mr. Higby was the administrative assistant to Mr. Haldeman, the senior aide, who would work on whatever projects Mr. Haldeman was working on at that particular time.

Mr. THOMPSON. Would the paper flow go through Mr. Higby invariably?

Mr. STRACHAN. Invariably is pretty all-inclusive. I cannot remember a case when the paper flow did not go through Mr. Higby.

Mr. THOMPSON. All right; Mr. Kehrli, his staff secretary, what were his responsibilities and what kind of input did he have with Mr. Haldeman during, say, the first 4 or 5 months of 1972?

Mr. STRACHAN. Well, his was primarily administrative. He would handle the Presidential action memorandums and the Presidential follow up, as well as the administration of the staff in terms of furniture, secretaries, salaries, recommendations as to who on the staff should get a raise, that sort of thing.

Mr. THOMPSON. Did he contact Mr. Haldeman usually through memorandums?

Mr. STRACHAN. All of us did.

Mr. THOMPSON. All right. What I am trying to do is to get some idea of the paper flow, some idea of a typical day in Haldeman's life during this particular time, how much paper he was contending with and what his responsibilities were. Could you elaborate a little bit further? You told about your own situation. As far as these other people are concerned, would it be similar with regard to the paper flow, the number of papers that were being submitted?

Mr. STRACHAN. Yes. The best way is to look at the papers as they eventually went in to him in the folders. The folders were organized and in the action folder there would usually be one or two memorandums on which he would have to make a decision, maybe as many as four or five, and the FYI folder there would be usually more, maybe as many as a dozen pieces of paper. By the end of the day the folder would have copies of other staff members' memos, there would be a half dozen, a dozen pieces of paper.

Mr. THOMPSON. But in addition to following up or supervising or whatever you say you did with regard to what was being submitted to him by his staff assistants, what were Mr. Haldeman's other duties? I know that they were probably pretty varied, but, for example, did he not travel with the President?

Mr. STRACHAN. Yes; he did.

Mr. THOMPSON. During the period of time, from, say, January to June, could you give us some kind of estimate as to how often he was out of the office with the President?

Mr. STRACHAN. Well, it is better to go the other way. If the President was out of the office the chances were pretty good that Mr. Haldeman would be with him. That would be the case, for example, during the China trip, during the Russia trip. If the President took a trip into the country, Mr. Haldeman normally traveled with the President.

Mr. THOMPSON. Did Haldeman actually have a schedule of his own or was his schedule completely determined by that of the President?

Mr. STRACHAN. Well, he would have regular meetings in the morning, 8:15, 8:30 meetings but after that any matters or meetings put on Mr. Haldeman's schedule would be keyed off of the President's schedule. If the President were to meet, as he probably is tomorrow with the Shah of Iran, that would be a time when you knew Mr. Haldeman would be available and you could schedule a meeting at that time.

Mr. THOMPSON. You mentioned tab H, and one of the tabs you submitted to Mr. Haldeman after your conversation with Magruder on March 30, and he had told you in your conversation with him on June 20, that he had not read tab H. Were you aware of any information, any other memorandums or parts of memorandums that he did not read?

Mr. STRACHAN. Well, he would usually indicate, I think you can say that he read every single one of my political matters memos in the original form, but frequently he would not want to read the tabs and he would write "I haven't read the tabs on it," or if there were no checkmarks in the upper right-hand corner of the tabs then you would conclude that he had not read them. Your responsibility then would be to make a second determination as to whether or not that he should in fact be forced to read the tab but that it should be brought to his attention again.

Mr. THOMPSON. All right. Now, let us move to another point, Mr. Strachan. You testified that on March 31, according to your best recollection, Mr. Magruder told you that a sophisticated political intelligence-gathering system had been approved with a budget of 300, and that you, subsequent to that, made a political matters memorandum for Mr. Haldeman in which you pretty much set out the same language verbatim and attached a tab, a tab H, as an example of the type of information that was being gathered. Is that correct?

Mr. STRACHAN. Yes; that is correct.

Mr. THOMPSON. When did you submit the political action memorandum to Mr. Haldeman?

Mr. STRACHAN. I am not exactly sure.

Mr. THOMPSON. How many days after your conversation with Magruder?

Mr. STRACHAN. Well, it would have been within a couple of days, I guess. I mean, it is possible that it went over the weekend if he were going to be out of town, but it might have gone in on Monday. I just do not recall.

Mr. THOMPSON. All right. Tab H was what has been referred to as Sedan Chair material.

Mr. STRACHAN. Right.

Mr. THOMPSON. I believe you previously stated that it had something to do with the Humphrey campaign. But you also stated that you assumed that it had something to do with a plant inside various campaigns, Sedan Chair II. Where did you get the Sedan Chair material which you submitted along with this memorandum with tab H?

Mr. STRACHAN. Well, I had received Sedan Chair from the committee.

Mr. THOMPSON. On a regular basis?

Mr. STRACHAN. No; I do not think I received it on a regular basis. I had received two other reports. This one was far and away the most interesting, which was the reason I included it at the tab.

Mr. THOMPSON. All right. This really gets into another area of inquiry with regard to the committee, so I will pursue it just a little bit further.

Who did you receive this material from at the committee?

Mr. STRACHAN. I do not recall receiving it from a particular person. There was a standard messenger system that would deliver all the material from the committee to me. It was delivered to a box and then the secretaries would open it and bring it in to me. And there was not a buckslip or something on it that would indicate where it was from, necessarily.

Mr. THOMPSON. Do you recall having any conversations with anyone at the committee as to the source of the Sedan Chair material?

Mr. STRACHAN. No; and I did not really know that Sedan Chair II was a plant in the Humphrey campaign until, I believe it was either Mr. Porter's or Mr. Reisner's testimony to that effect.

Mr. THOMPSON. As you were receiving the material, what did you assume the origins of this material to be?

Mr. STRACHAN. Well, there were a lot of pieces of paper that would be characterized as political intelligence that would arrive from the committee and other members of the White House staff.

Mr. THOMPSON. Well, what did you consider the origins of it to be as you were receiving it?

Mr. STRACHAN. Well, I thought it could have been maybe a report from a reporter that was being paid by the committee, maybe a disgruntled staff member.

Mr. THOMPSON. So you did not assume that it was wiretap material?

Mr. STRACHAN. No; I did not make that assumption until considerably later, when I went back and reread the opening remarks on Sedan Chair II, that it was a confidential source and reliably reporting some information, something to that effect.

Mr. THOMPSON. When you submitted this memorandum to Mr. Haldeman and attached this material as tab H, what made you assume that this indeed was the type of material this sophisticated political intelligence-gathering system was producing? How did you associate the two?

Mr. STRACHAN. Well, I had learned on December 2 from John Dean that Mr. Liddy was going to assume control of Mr. Porter's intelligence-gathering activities, and I prepared a talking paper for Mr. Haldeman where the question was: Is Mr. Liddy the one person responsible at the committee for political intelligence, and if there was political intelligence coming from the committee, I assumed it was from Mr. Liddy.

Mr. THOMPSON. Well, you received this information back in December, you say, about Mr. Liddy?

Mr. STRACHAN. That is correct.

Mr. THOMPSON. And you did not receive that Magruder phone call until March 30, wherein he says a new system—I assume the implication was a new system—had been approved, or 1701 now has such a system. Did you not take that to mean a new system which indeed had just been approved? Did he not mention the Key Biscayne meeting or the fact that Mr. Mitchell or someone had just then recently approved a new system?



Mr. STRACHAN. No. I figured maybe the entire system had been consolidated, or something. I knew during January and February that political intelligence information was being acquired, presumably by Mr. Liddy.

Mr. THOMPSON. All right. So you, in your mind, anyway, thought that at that time there were really two systems, programs. You say the systems perhaps were consolidated. What do you mean by that? What do you mean by consolidated? What was consolidated?

Mr. STRACHAN. Well, as testimony has indicated, Mr. Liddy apparently had received \$125,000 well before this budget amount was approved. I had told Mr. Liddy that Mr. Segretti would report to him. I just assumed that finally, there was going to be one unified system.

Mr. THOMPSON. All right. That gets back to the mid-April conversation you had with Haldeman when he told you to tell Liddy to transfer his capabilities from Muskie to McGovern. And as I understand it, now you are saying that you understood that Liddy was engaged in other intelligence-gathering operations completely separate and apart from electronic surveillance of what went on at DNC; that from December, you understood that Mr. Liddy was generally in the intelligence-gathering business, so to speak, perhaps some of it even in a legitimate vein. On the mid-April conversation, what kind of capabilities did you understand Haldeman was telling you to have Liddy transfer from Muskie to McGovern?

Mr. STRACHAN. I do not think I really focused on it, but I think I assumed that that would involve people like the Muskie driver.

Mr. THOMPSON. Not electronic surveillance, but things like the Muskie driver and the Sedan Chair operation that you previously testified to?

Mr. STRACHAN. That is correct.

Mr. THOMPSON. Do you know of any indication of transfer from Muskie to McGovern? Do you know of any indications that Senator Muskie's office phones were tapped or there were any electronic devices placed in any of Muskie's offices?

Mr. STRACHAN. No; I do not.

Mr. THOMPSON. Backing up just for a minute to the April 4 meeting between Haldeman and Mitchell. You prepared a talking paper for that meeting and one item was the new system. What exactly did the talking paper say with regard to the system that Magruder told you about on March 30?

Mr. STRACHAN. Well, it said something to the effect that, is the intelligence-gathering system adequate? Is the intelligence system on track? Typical questions that I had put in other talking papers.

Mr. THOMPSON. But you did not know exactly what intelligence system you were talking about, did you?

Mr. STRACHAN. No; I did not.

Mr. THOMPSON. Did you not assume that Mr. Haldeman's only source of information with regard to that was yourself? Were you not supposed to keep up with that? How did you expect Haldeman to be able to talk about whether Mitchell had answered yes or no if he did not have any more information than you had?

Mr. STRACHAN. Well, the purpose of the talking paper was to raise the subject. I would frequently say, for example, is the political organization in New York functioning smoothly? I knew very, very little about the political organization in New York, but—

Mr. THOMPSON. But if you referred to a political plan in New York, Mr. Haldeman would have had to know something about what plan you were talking about, would he not?

Mr. STRACHAN. No—

Mr. THOMPSON. Does that not require some substantive knowledge in order to be able to discuss it at all?

Mr. STRACHAN. Not necessarily. The point is to raise the subject so that Mr. Haldeman would receive some information from the individual that he would be talking with.

Mr. THOMPSON. You mentioned, I believe in your statement, another point, that Mr. Dean was responsible for coordinating the intelligence-gathering activities, or maybe relating information. Would that be a factor also?

Mr. STRACHAN. Yes, sir.

Mr. THOMPSON. You never knew what Dean was informing him of at any particular time?

Mr. STRACHAN. Well, I knew parts of what Dean was informing him of. I did not know all.

Mr. THOMPSON. Let me see if I understand. You are saying that, generally, it was your responsibility to act as liaison with the Committee To Re-Elect. But are you saying that this also included the intelligence area, or are you saying that Dean actually was the liaison for this limited area of intelligence? Or did you overlap?

Mr. STRACHAN. Well, several of the talking papers that I prepared for Mr. Haldeman would pose the question, should Dean be more than the White House contact for political intelligence—again, just raising the subject for discussion. If I had a particular problem, as I did when Mr. Liddy asked if he could report to Mr. Haldeman, I would call Mr. Dean.

Mr. THOMPSON. Why do you think that Haldeman asked you to contact Liddy, your not knowing any more about it than you did in mid-April, instead of having Dean do it?

Mr. STRACHAN. I am not really sure about that. Maybe Dean was not available. It was a very simple message. It was a directive to someone at the committee. I am not sure why he called me.

Mr. THOMPSON. You have mentioned the June 20 conversation that you had with Haldeman when you discussed the break-in that occurred on the morning of the 17th; you have gone into that in some detail. You said that he—and I believe I am using your words—said to make sure that the files were clean. Are those words that he used as best you can recall?

Mr. STRACHAN. Pretty close.

Mr. THOMPSON. Could that have more than one meaning, in retrospect? Could it mean either that you were to destroy documents or you were to find out if there were incriminating documents, other incriminating documents, regardless of what decision he would be making with regard to them then? In retrospect, could that be a double meaning?

Mr. STRACHAN. Looking back now, it could be given a double meaning. All I know now is what I assumed immediately at the time the instructions were given to me and what I did shortly thereafter and what I reported to John Dean shortly thereafter. The impression was very clear in my mind that the documents could be destroyed, but if you examine the sentence, it could be subject to two interpretations.

Mr. THOMPSON. But there is nothing else he said that bears on that

directly? You were operating strictly on his words, "make sure the files are clean?"

Mr. STRACHAN. That is correct.

Mr. THOMPSON. But in your conversation with him on July 1 in Air Force One, I think I am quoting you exactly when you said you told Haldeman that you had made sure that the files were clean. And Mr. Dash asked you what he said when you told him you had destroyed the files, and so forth, and you accepted that for destruction.

If you can recall, what did you tell him? Did you in fact say that you had made sure the files were clean, or did you say that you had destroyed documents? What words did you use, if you can recall?

Mr. STRACHAN. I told him that I had made sure the files are clean and that the political matters memorandum which I had shown to him I had destroyed, and I may have mentioned to him that I had told John Dean about it. I don't recall telling Mr. Haldeman that I had told John Dean.

Mr. THOMPSON. What did you tell John Dean? I am sure that you are familiar with Mr. Dean's testimony. He indicates that his primary suspicions with regard to Haldeman came from his conversation with you with regard to pre-June 17 involvement. Did you tell him that Haldeman had received information which made him aware of what was going on with regard to electronic surveillance before June 17?

Mr. STRACHAN. No; I think I told John Dean that I had prepared a political matters memorandum for Mr. Haldeman with this information in it, with the Sedan Chair II as an attachment, that Mr. Haldeman had not read that or had indicated to me that he had not read it before, that he read it at that time, and I proceeded to tell John Dean the documents that I had destroyed.

Mr. THOMPSON. All right. Is that all you told him as best you can remember?

Mr. STRACHAN. Yes; I think so. The reason I went to see John Dean was to tell him that.

Mr. THOMPSON. All right. What do you understand now of what the Sedan Chair II material had to do with the origins of it? The fruits of electronic surveillance or plants inside of headquarters?

Mr. STRACHAN. I just know the information that has been testified before this committee.

Mr. THOMPSON. Most of the testimony, I believe, indicates the latter, does it not?

Mr. STRACHAN. That is correct.

Mr. THOMPSON. With regard to the money, just one more point, Mr. Strachan. On April 6, the \$300,000 transfer was made. From Mr. Dean's testimony, I believe Mr. Dash is correct, he indicates that approximately \$22,000 was appropriated, and only about \$7,000 was spent, leaving him about \$15,000, or \$15,200, which was turned over to Mr. Dean. Then you testified that he said he wanted to make the \$350,000 whole again, and therefore, Fielding was dispatched to get \$22,000 from Stans. But it would appear if Dean had \$15,000 or \$15,200, you would only need an additional \$7,000. First of all, who dispatched Fielding to get the money? Who told him how much to get? And why was he told to get \$22,000 instead of just \$7,000, which would have made the fund whole?

Mr. STRACHAN. Well, I assume that John Dean told Fielding to go get the money and to get the amount. Why he told him to get \$22,000, I simply don't know.

Mr. THOMPSON. If he had gotten the \$22,000 would it not appear that Mr. Dean would have the \$15,000 or \$15,200 over there, over and above the original \$350,000?

Mr. STRACHAN. Yes, sir.

Mr. THOMPSON. Thank you, Mr. Strachan.

I have no more questions, Mr. Chairman.

Senator ERVIN. Senator Montoya.

Senator MONTOKA. Mr. Strachan, you indicated that you had submitted to Mr. Haldeman prior to the Key Biscayne decision a memorandum which indicated that this was going to be one of the subjects of discussion at Key Biscayne. Is that correct?

Mr. STRACHAN. No, Senator. I think what I testified to is that after the Key Biscayne meeting, I submitted a memorandum to Mr. Haldeman describing decisions made in Key Biscayne.

Senator MONTOKA. What did you mean when you said that Mr. Magruder had called you before he left for Key Biscayne and reviewed with you the decision papers that were going to be submitted to Mr. Mitchell?

Mr. STRACHAN. No; I said that I was aware that Mr. Magruder would be going down to Key Biscayne to meet with Mr. Mitchell. I did not review with Mr. Magruder all pending matters that would be a subject for discussion and decision in Key Biscayne.

Senator MONTOKA. As I understood your testimony, you had a telephone conversation with Mr. Magruder before he left for Key Biscayne and that one of the items of conversation was with respect to this particular intelligence-gathering plan. Did you state that?

Mr. STRACHAN. No, Senator; that is not correct.

Senator MONTOKA. All right. Now, who was Mr. Butterfield's friend where the money was delivered? To whom was the money delivered?

Mr. STRACHAN. Well, this memorandum is in existence and I have recently reviewed it, and I believe the name of the individual who was a friend of Mr. Butterfield is a Mr. Lilley.

Senator MONTOKA. Lilley? What's his full name?

Mr. STRACHAN. I am sorry, I don't know.

Senator MONTOKA. Now, in the process after June 20, you proceeded to destroy several documents with respect to political matters that might have been sensitive. Now, you testified that you spent several hours trying to cull these documents. What particular file room did you go to to examine the sensitivity, into the sensitivity of these particular documents?

Mr. STRACHAN. Well, the office that we moved into on January 1 was a unified office in that there was only one door and both Bruce Kehrli and myself and four secretaries were located in one area behind one door. Since the documents in this office included Presidential memorandums and Presidential action papers, Mr. Haldeman's personal notes, the President's files, there was a sensor device installed so that when a door was closed, it was monitored at, I believe, the Secret Service or police monitoring station so that no one could go into that office unless they were cleared with the guard and the time of the per-

sons going into the office and departure would be recorded. So when you ask which files I went through, they were the files in this office. In particular, I kept the political matters memorandums in one large file cabinet out by the secretaries.

Senator MONTROYA. In this particular office?

Mr. STRACHAN. Yes, sir.

Senator MONTROYA. And was it at this particular office and from one of the filing cabinets therein that you culled the five specific documents which you have mentioned?

Mr. STRACHAN. It is from this particular office and from this particular file cabinet that I culled the documents. I am not sure that the list is exactly five.

Senator MONTROYA. Yes.

Now, with respect to the political memorandum document in which you mention the Key Biscayne matter, what are the specifics in that particular document?

Mr. STRACHAN. I am sorry, Senator. Would you repeat that?

Senator MONTROYA. With respect to the particular political matters document what are the specifics with respect to the Key Biscayne decision?

Mr. STRACHAN. Well, one of the 30 or so decisions that Mr. Magruder reported to me on, included the statement that 1701, meaning, of course the Committee To Re-Elect the President, now has a sophisticated political intelligence gathering system with a budget of 300.

Senator MONTROYA. Was there more amplification of that statement?

Mr. STRACHAN. The next sentence in the paragraph said, "The sample of the type of information they are developing is attached at tab H."

Senator MONTROYA. What did tab H reflect in respect to that?

Mr. STRACHAN. At tab H was a document Sedan Chair II.

Senator MONTROYA. Anything else?

Mr. STRACHAN. Concerning that subject?

Senator MONTROYA. Yes.

Mr. STRACHAN. No, sir.

Senator MONTROYA. Now, you mentioned in previous testimony that the White House did have a dirty tricks capability. What did you mean by that?

Mr. STRACHAN. Well, Mr. Colson's was referred to as the office of dirty tricks, so that is what I—

Senator MONTROYA. Well, within what context did you discuss this capability and Mr. Colson? You must have had some background information.

Mr. STRACHAN. Well, periodically press reports would appear about things which you would jokingly or not so jokingly attribute to Mr. Colson. The only specific matter that I can recall at the moment regarding what would be sort of a dirty trick was concerning the 1970 election when I worked on the attack ads with Mr. Colson.

Senator MONTROYA. What do you mean by the attack ads?

Mr. STRACHAN. Well, 1970 there were a series of Senate races where—

Senator ERVIN. I don't believe we are entitled to investigate 1970. I think we are restricted to 1972 and the campaign preceding the 1972 election.

Senator MONTTOYA. I didn't mean to ask you that question with respect to the 1970 races.

Senator ERVIN. I just raise that point in the interest of time is all.

Senator MONTTOYA. I just wanted to get the background as to this capability. You don't have to get into the particular details if you don't want to, as the chairman states.

Now, how long has this capability existed at the White House?

Mr. STRACHAN. Well, I think it was there when I arrived in August of 1970.

Senator MONTTOYA. And it was there during the 1972 campaign?

Mr. STRACHAN. Yes, sir.

Senator MONTTOYA. Who was the head of it?

Mr. STRACHAN. Mr. Colson.

Senator MONTTOYA. Was Mr. Haldeman acquainted with this capability?

Mr. STRACHAN. Well, that was a subject of some concern. Every once in a while Mr. Haldeman would ask me, "Well, what do you know about what Mr. Colson is doing?" and I would tell him, "I am sorry I really don't know very much about what Mr. Colson is doing."

And he would turn to Mr. Higby and say, "Do you know anything about what Mr. Colson was doing?"

And it was sort of a joke, nobody really knew what Mr. Colson was doing. [Laughter.]

Senator MONTTOYA. Did you believe that Mr. Haldeman knew what was going on there?

Mr. STRACHAN. Well, if he knew he found out directly from Colson.

Senator MONTTOYA. What is your opinion with respect to what knowledge Mr. Haldeman might have had with respect to dirty tricks and to intelligence gathering? Is it your feeling that he did have this knowledge of what was going on?

Mr. STRACHAN. You are asking my opinion?

Senator MONTTOYA. Yes.

Mr. STRACHAN. Well, my opinion would be that he was certainly aware of Mr. Colson's various dirty tricks, not necessarily the specifics or the details but that he was generally aware of them, and that he was aware of intelligence gathering since it had been discussed in several meetings.

Senator MONTTOYA. Your testimony indicates that in all these political memorandums which you submitted to Mr. Haldeman that there was a constancy with regard to the question of intelligence gathering and its adequacy. You indicated that you had always almost invariably included that particular sphere of inquiry. Why did you do this?

Mr. STRACHAN. Well, from the time I arrived on Mr. Haldeman's staff there was an interest in political-intelligence gathering. This subject was raised in many meetings, never apparently formally resolved, so I would continue putting it in talking papers.

Senator MONTTOYA. Was Mr. Liddy always mentioned when these discussions took place?

Mr. STRACHAN. No. The first time Mr. Liddy's name was mentioned, I believe, was on November 4. There were several previous references to different intelligence plans.

Senator MONTROYA. What do you mean, what year are you speaking of?

Mr. STRACHAN. 1971.

Senator MONTROYA. And Mr. Liddy's name began cropping up with respect to intelligence gathering about that time, is that what your testimony is?

Mr. STRACHAN. That is correct, Senator.

Senator MONTROYA. So that when Mr. Haldeman instructed you to tell Mr. Liddy to change from Senator Muskie's campaign to McGovern's you understood the context in which he was speaking?

Mr. STRACHAN. Oh, yes, sir.

Senator MONTROYA. And what kind of conversation did you have with Mr. Liddy in following Mr. Haldeman's instructions?

Mr. STRACHAN. Well, I called up Mr. Liddy, asked him to come to my office, had him cleared to come to my office. He came in, and I opened my notebook and really read the statement to him.

Senator MONTROYA. Will you please repeat the exact statement which you read to him and also try to relate the conversation that you had by way of amplification, if you did?

Mr. STRACHAN. Well, the statement that I read was, "Transfer whatever capability you have from Muskie to McGovern with particular emphasis on discovering the relationship between Senator McGovern and Senator Kennedy."

Senator MONTROYA. When you spoke about that or testified about the monitoring of the conversation between Mr. Mitchell and Mr. Haldeman, did you take any notes of this particular conversation?

Mr. STRACHAN. Yes, sir, I did.

Senator MONTROYA. What did those notes reflect?

Mr. STRACHAN. Pretty close to what I have testified to. Those notes are in existence and I have reviewed them recently. They are very close to what I mentioned earlier.

Senator MONTROYA. What were they, I didn't hear all of it.

Mr. STRACHAN. It was a very brief conversation where Mr. Mitchell said he was either returning from Florida or had returned from Florida and that he and Mr. Haldeman should probably get together. Mr. Haldeman mentioned that it was probably a mistake that he wasn't still down in Florida on vacation, sort of a joking reference. I think Mr. Haldeman suggested that 3 o'clock that day might be convenient.

Senator MONTROYA. They didn't discuss any specifics in the conversation with respect to the subject matter or the agenda for the next day?

Mr. STRACHAN. It was, the meeting was scheduled for that same day.

Senator MONTROYA. Or that day.

Mr. STRACHAN. And they did not discuss any specifics.

Senator MONTROYA. All right.

What did you incorporate with respect to intelligence gathering or with respect to Mr. Liddy in the talking paper that you submitted to Mr. Haldeman for that afternoon?

Mr. STRACHAN. The question I posed, I would prepare the talking paper, it would be double spaced and there would be a paragraph on intelligence. Under the subject intelligence, I would pose questions such as "Is the current system adequate? Is the intelligence system on track?" something to get the conversation going.

Senator MONTROYA. How long did the meeting take?

Mr. STRACHAN. I did not attend the meeting, and I simply don't know how long it took. I received the materials back from the meeting but I do not know how long the meeting lasted.

Senator MONTROYA. Now, in preparing these talking papers and always including something with respect to your concern for the state of intelligence gathering going on, is it reasonable to assume that you had a fair background as to what the White House was doing by way of intelligence gathering otherwise you would not have given such importance to this particular type of inquiry into the talking papers.

Mr. STRACHAN. Well, I had absolutely no background in intelligence gathering. The reason the subject was included was that whenever we would go into a talking paper there would be a note about it, "I would have to check Mr. Ehrlichman" or "It is on track," or "It isn't," something to indicate that the subject should be reraised.

Senator MONTROYA. Now, a few minutes ago on cross-examination by Mr. Dash, you indicated that it was your assumption and belief, because of Mr. John Dean's dedication that he would have told Mr. Haldeman about everything that he was doing; that was substantially your statement, was it not?

Mr. STRACHAN. Well, that is slightly overstated, I think, Senator. My statement to Mr. Dash was that Mr. Dean had a remarkable facility for the facts, and that he reported independently to Mr. Haldeman and to Mr. Ehrlichman. There are many things in John Dean's office, minor conflict of interest matters, that I am fairly certain he never reported to Mr. Haldeman. So it wouldn't quite be accurate to say that he reported everything to him.

Senator MONTROYA. Well, you knew Mr. Dean for quite some time. Would you say he is a truthful man?

Mr. STRACHAN. Well, I don't think he ever lied to me.

Senator MONTROYA. Now, would it be your opinion that if John Dean said he had told the President about Watergate and the coverup, would you say that Dean was telling the truth?

Mr. STRACHAN. Well, this is my opinion based on my experience with John Dean, and my opinion would be that John Dean would be telling the truth.

Senator MONTROYA. Let us go into this. What was your real motivation for coming to work in the White House?

Mr. STRACHAN. Well, I practiced law for 2 years in New York. New York is a fascinating place to practice law but a disastrous place in which to live. [Laughter.]

I had known Mr. Chapin, he had asked me to join the White House staff, I had worked with certain members of the White House staff as an advance man. I liked the individuals, people told me Washington was a much better place to live so I accepted the job.

Senator MONTROYA. And were you really thrilled and enthused about your assignment here in Washington when you first came here?

Mr. STRACHAN. Oh, definitely. [Laughter.] To be 27 years old and walking into the White House and seeing the President on occasion, and Dr. Kissinger, and it's a pretty awesome-inspiring experience for a young man.



Senator MONTROYA. It is quite an opportunity for a young man, isn't it?

Mr. STRACHAN. Yes, sir; it was. [Laughter.]

Senator MONTROYA. Now, I know, Mr. Strachan, how proud your family is of you—[laughter].

Because this information has come to me, and justly so, perhaps, but I want to ask you this question, and I think you can be of great help with your answer: Now because of Watergate, many young people are writing to us, to the different members of the committee, expressing great consternation about the future of our country, and also saying that public service is not as attractive as before Watergate. In other words, they are greatly disappointed, and they feel letdown in their expectations. Now the Gallup poll indicates this.

Going back to your original concept of public service, and the motivations which moved you into this spectrum, and then subsequently your soldierly obedience to instructions from your superiors, and your fall into the Watergate pit, what advice do you have for these young people. I believe they want to hear from you. Will you expound on that?

Mr. STRACHAN. Well, it may sound—it may not be the type of advice that you could look back and want to give, but my advice would be to stay away. [Laughter.]

Senator MONTROYA. I think you have answered it very well.

Thank you, Mr. Chairman.

Senator ERVIN. The committee will stand in recess until 2 o'clock.

[Whereupon at 12 noon, the committee recessed to reconvene at 2 p.m., the same day.]

#### AFTERNOON SESSION, MONDAY, JULY 23, 1973

Senator ERVIN. In the interest of time, I think perhaps I should read into the record the communications which I have had for the committee. The first letter addressed to me, reads as follows:

THE WHITE HOUSE,  
Washington, July 23, 1973.

DEAR SENATOR: In view of the intervening events since our telephone conversation on July 12, I know of no useful purpose that would be served by our having a meeting at this time. If you feel otherwise, please have Mr. Edmisten contact Mr. Timmons, and he will arrange a time for a meeting.

Sincerely,

RICHARD NIXON.

Senator ERVIN. Well, at long last, I have got something I agree with the President on in connection with this matter. If the President does not think there is any useful purpose that can be obtained by our meeting together, I will not dissent from that view, so I will not ask for the privilege of visiting the White House.

The second letter reads as follows:

THE WHITE HOUSE,  
Washington, July 23, 1973.

DEAR MR. CHAIRMAN: I have considered your request that I permit the Committee to have access to tapes of my private conversations with a number of my closest aides. I have concluded that the principles stated in my letter to you of July 6th preclude me from complying with that request, and I shall not do so. Indeed, the special nature of tape recordings of private conversations is such that these principles apply with even greater force to tapes of private Presidential conversations than to Presidential papers.

If release of the tapes would settle the central questions at issue in the Watergate inquiries, then their disclosure might serve a substantial public interest that would have to be weighed very heavily against the negatives of disclosure.

The fact is that the tapes would not finally settle the central issues before your Committee. Before their existence became publicly known, I personally listened to a number of them. The tapes are entirely consistent with what I know to be the truth and what I have stated to be the truth. However, as in any verbatim recording of informal conversations, they contain comments that persons with different perspectives and motivations would inevitably interpret in different ways. Furthermore, there are inseparably interspersed in them a great many very frank and very private comments, on a wide range of issues and individuals, wholly extraneous to the Committee's inquiry. Even more important, the tapes could be accurately understood or interpreted only by reference to an enormous number of other documents and tapes, so that to open them at all would begin an endless process of disclosure and explanation of private Presidential records totally unrelated to Watergate, and highly confidential in nature. They are the clearest possible examples of why Presidential documents must be kept confidential.

Accordingly, the tapes, which have been under my sole personal control, will remain so. None has been transcribed or made public and none will be.

On May 22nd I described my knowledge of the Watergate matter and its aftermath in categorical and unambiguous terms that I know to be true. In my letter of July 6th, I informed you that at an appropriate time during the hearings I intend to address publicly the subjects you are considering. I still intend to do so and in a way that preserves the Constitutional principle of separation of powers, and thus serves the interests not just of the Congress or of the President, but of the people.

Sincerely,

RICHARD NIXON.

Senator ERVIN. Upon the receipt of this communication from the White House, the Select Committee held a meeting and unanimously voted to authorize and direct the chairman to issue two subpoenas, one requiring the President to produce the tapes which will be described in the subpoena, and the other one requiring the President to make available to the committee—I should have said requiring the President to make available to the committee the tapes which will be described in the subpoena, and the Presidential papers—that is, the White House papers—that are to be described in the subpoena.

This is a rather remarkable letter about the tapes. If you will notice, the President says he has heard the tapes or some of them, and they sustain his position. But he says he's not going to let anybody else hear them for fear they might draw a different conclusion.

[Laughter.]

In other words, the President says that they are susceptible of, the way I construe it, two different interpretations, one favorable to his aides and one not favorable to his aides.

I deeply regret this action. I have very different ideas of separation of powers from those expressed by the President. If such a thing as "executive privilege" is created by the doctrine of separation of powers, it has these attributes. First, if it exists at all, it only exists in connection with official duties.

Second, under no circumstances can it be invoked on either alleged illegal activities or political campaign activities.

I am certain that the doctrine of separation of powers does not impose upon any President either the duty or the power to undertake to separate a congressional committee from access to the truth concerning alleged criminal activities.

I was in hopes that the President would accede to the request of this committee for these tapes and these papers. I love my country. I venerate the office of the President, and I have the best wishes for the success of the present incumbent of that office, because he is the only President this country has at this time.

A President not only has constitutional powers which require him to see to it or to take care that the laws be faithfully executed, and I think it's his duty under those circumstances to produce information which would either tend to prove or disprove that criminal activities have occurred. But beyond that, the President of the United States, by reason of the fact that he holds the highest office in the gift of the American people, owes an obligation to furnish a high standard of moral leadership to this Nation and his constitutional duties, in my opinion, and undoubtedly his duty of affording moral leadership to the country places upon him some obligation under these circumstances.

We have evidence here that during the time the President was running for reelection to the highest office, in the gift of the people of this Nation, that some of his campaign funds were found in the possession of burglars in the headquarters of the opposition political party. And I think that high moral leadership demands that the President make available to this committee any information in the form of tapes or records which will shed some light on that crucial question: How did it happen that burglars were caught in the headquarters of the opposition party with the President's campaign funds in their pockets and in their hotel bedrooms at the time? And I don't think the people of the United States are interested so much in abstruse arguments about the separation of powers or executive privilege as they are in finding the answer to that question.

I deeply regret that this situation has arisen, because I think that the Watergate tragedy is the greatest tragedy this country has ever suffered. I used to think that the Civil War was our country's greatest tragedy, but I do remember that there were some redeeming features in the Civil War in that there was some spirit of sacrifice and heroism displayed on both sides. I see no redeeming features in Watergate. [Applause.]

Senator BAKER. Mr. Chairman.

Senator ERVIN. Senator Baker.

Senator BAKER. Mr. Chairman, it is difficult for me to express my disappointment that we have arrived at a place where at least the leading edge of a confrontation on the question of separation of powers between the Congress and the White House is before us. You have pointed out that this committee has authorized by unanimous vote the issuance of a subpoena duces tecum for certain documents and certain portions of the so-called Butterfield tapes relevant to the inquiry of this committee. As my colleagues on the committee know, I have tried as hard as possible to find a way around this confrontation. I have suggested several alternative possibilities. Even now, I don't despair that no way can be found to reconcile the differences in the conflict that impends between the Congress and the executive department. But I concur with my colleagues on the committee in the evaluation that there was no practical course of action except to authorize the action which has been described. I voted for it and I support it.

I think the material sought by the subpoena duces tecum or, more accurately, by the subpoenas duces tecum, are essential, if not vital, to the full, thorough inquiry mandated and required of this committee.

I shall refrain from expressing my evaluation of the entire situation—that is, the totality of the testimony and the inferences to be drawn from it—until we have heard all of the information, all of the witnesses, all of the testimony, and examined all of the documents that are made available to us. On February 28, 1974, or prior thereto, if the committee files its report at an earlier date, I will express my conclusions, but not before.

It is my fervent hope, however, that when we finally get to the business of writing a report, that we have available all relevant information and that we can in fact write a definitive statement on Watergate—without trying to indict or punish anyone and certainly without trying to persecute anyone or to protect anyone.

The committee has been criticized from time to time for its absence of rules of evidence, of the right of confrontation, of cross-examination by counsel, and a number of other legal concepts. We do not have defendants, either, and we are not trying to create defendants. We are trying to find facts, to establish circumstances, to divine the causes, and to ascertain the relationships that make up in toto the so-called Watergate affair. I am unhappy that it is necessary for us to come to the brink of a constitutional confrontation. Although that is a hackneyed phrase, it is accurate—a constitutional confrontation between the Congress and the White House—a confrontation that has never been resolved in its totality by the courts. It involves a principle and a doctrine that has never been fully elaborated and spelled out. We must fully discharge our obligation as a committee.

I have no criticism of any person. I will not sit in judgment of any person or the conduct of any person until all of the evidence is taken. But I can do no less than try to gain all of the information necessary to support later conclusions.

Thank you, sir.

Senator ERVIN. I commend the excellent statement of my vice chairman. Does any other member of the committee have any observation he would like to make at this time before we resume the interrogation of the witness?

If not, Senator Weicker will question the witness. We will please have order in the caucus room so we can proceed. Everyone moving, move just as quietly as possible so Senator Weicker and the questions can be heard by the witness and so the witness' answers can be heard by the committee.

Senator WEICKER. Mr. Strachan, you indicated to the committee in earlier testimony of your monitoring of a telephone conversation between John Mitchell and Bob Haldeman, is that correct?

Mr. STRACHAN. Yes, sir.

Senator WEICKER. Monitoring, in other words, you are listening in on the conversation between these two individuals, is that correct?

Mr. STRACHAN. Yes, Senator, that is correct.

Senator WEICKER. And, of course, we also know of apparatus installed in the White House as to the bugging of rooms or the taping of telephone conversations that has been described by an earlier witness.

Can you tell me of any other system within the White House or the EOB, relative to the taping of telephone conversations?

Mr. STRACHAN. Well, I am not sure it has been described by other witnesses before but we discussed this with you, Senator, in executive session, as I recall, and at that point I mentioned that several White House aides had the capability on their telephone to switch their dictaphones to record telephone conversations.

Senator WEICKER. Could you give to the committee the names of those who had that capability?

Mr. STRACHAN. I am not sure the list would be inclusive. Those that I know—

Senator WEICKER. Did you have such an apparatus on your telephone?

Mr. STRACHAN. Yes, Senator, I did.

Senator WEICKER. All right. Could you name any others that you knew of that had such a system on their telephone?

Mr. STRACHAN. Yes, my secretary, Mr. Higby, Mr. Colson.

Senator WEICKER. Do you have any of the tapes from your telephone conversations, tapes derived in this particular way?

Mr. STRACHAN. Well, the tapes from my telephone conversations were usually transcribed immediately, and then the tapes simply reused. Some of the transcriptions still exist in the Executive Office Building.

Senator WEICKER. Do you know if transcriptions of the telephone conversations over Mr. Colson's phone or did you indicate that Mr. Higby had such a system—yes, Mr. Higby. Do you know of transcriptions of their taped telephone conversations exist?

Mr. STRACHAN. I simply do not know. The only documents that I have access to are my own records.

Senator WEICKER. So it is true then, that in addition to the system employed by the President, individual members of the White House staff, at least to the extent of yourself and Mr. Colson and Mr. Higby, also had the capability to tape telephone conversations. And that to your knowledge, a transcription of those conversations, at least your conversations—let me be very specific, still exists at the White House?

Mr. STRACHAN. Yes, Senator, that is correct.

Senator WEICKER. When was this system set up?

Mr. STRACHAN. I believe it was installed when I joined Mr. Halde-  
man's staff and became extensively involved in polling operations.

Senator WEICKER. And who is responsible for setting up the system?

Mr. STRACHAN. I do not know who technically set up the system. It would either have been the White House communications agency or possibly the Secret Service. I just do not know who the technical people were who made the arrangements.

Senator WEICKER. At what date in time did you acquire this taping capability? I do not think you answered the question I had previously asked and I would just like to ask it again, at what date in time did you acquire this taping capability?

Mr. STRACHAN. Well, I definitely had it when we moved into our new offices on January 1, 1972, and I think I had it in the previous office that I had 6 months prior to that.

Senator WEICKER. Do you not know whether or not you had a taping capability prior to January of 1972? Would you like to, let me refresh

your memory, if I am not mistaken, did you not have experiences that dealt with the taping of polling operations and would not that have taken place prior to 1972?

Mr. STRACHAN. Yes, that is why I am fairly certain I did. I just cannot picture in my mind the capability in my prior office.

Senator WEICKER. All right. Then, let us move on from that point to an area which you discussed with the committee when I was present, relative to the election of 1972, and, more specifically, what I would term White House attitudes toward Democratic Congressmen and Democratic Senators in the South, just raising the subject in that general way, would you like to indicate to the committee your knowledge of these congressional and senatorial races and the attitudes of the White House toward them?

Mr. STRACHAN. Well, as I indicated to you in executive session, Senator, there was a list of approximately 100 Democratic Congressmen, primarily from the South, who had supported the President on the crucial votes on the Vietnam war, and I do not recall the list. A number of the Democratic Senators, again primarily from the South, who similarly have supported the President on crucial votes on the Vietnam war.

Senator WEICKER. What was the purpose of this list?

Mr. STRACHAN. Well, it was my understanding that the 100 Democratic Senators would not receive very strong opposition from Republicans.

Senator WEICKER. Let me be specific. Do you mean to say that the 100 Senators and Congressmen, you did not mean 100 Senators but 100 Senators and Congressmen, total?

Mr. STRACHAN. Yes, sir, Senator, I made a mistake, 100 Congressmen.

Senator WEICKER. Would not receive opposition from Republicans, is that correct?

Mr. STRACHAN. I do not know if it was quite as strong as it would not receive opposition, but the goal was not to give a tremendous amount of support to Republicans that would oppose these Congressmen.

Senator WEICKER. In some instances was it discussed that no opponents would be fielded against the Democrat?

Mr. STRACHAN. I cannot specifically recall that.

Senator WEICKER. In the way of financial support to the Republican, was this withheld?

Mr. STRACHAN. There was a lot of discussion as to whether or not there should be any financial support to Republican candidates primarily because of the support that the President enjoyed from the labor movement. They were supporting Democratic Congressmen, and the feeling was that since they were supporting the President maybe we would not funnel funds into Republican congressional campaigns.

Senator WEICKER. Mr. Strachan, this goes even a little beyond what was discussed in the executive session. Now we are in another area as to support for Republican candidates. In other words, the two—let me be very clear on this point, in the instance of certain Republican candidates in the South, support was withheld from them because their Democratic opponents had supported the President on the war, would that be a fair paraphrase?

Mr. STRACHAN. Yes, that is my understanding.

Senator WEICKER. And now also apparently there is another category of Republican from whom support was withheld and that was a category that the choice was made on the basis since the President enjoyed labor support it would be offensive to go ahead and finance the Republican candidacy against the Democrat, is that correct?

Mr. STRACHAN. Yes. I think the basis of that decision, there were substantial campaign funds but when proposals would be submitted for some of those campaign funds to be channeled into House and Senate races those proposals would usually be rejected.

Senator WEICKER. Who would make these types of decisions?

Mr. STRACHAN. The only decisions I know about were made by Mr. Haldeman.

Senator WEICKER. In other words, in effect, if I am not mistaken is that we have Republicans doing in Republicans here, is that correct?

Mr. STRACHAN. Well, the President made quite a point during the campaign, and knows the campaign literature was not specifically tied to the Republican Party because something like 20 million Democrats supported the President.

The effort was to not rely tremendously on a party that represented only 27 percent of the people.

Senator WEICKER. So, in effect, the Committee To Re-Elect the President operation was not a Republican effort, it was a Committee To Re-Elect the President operation?

Mr. STRACHAN. That is a fair statement.

Senator WEICKER. So I think, Mr. Chairman, possibly it's not only your party that is aggrieved at this stage of the game but also my Republican Party that has been aggrieved by the actions of these individuals. [Laughter.]

Is there any other category of Republican that you can think of that had support withheld from his campaign?

Mr. STRACHAN. Not that I can think of at the moment.

Senator WEICKER. Did it occur to you then or does it occur to you now that absolutely guaranteed the fact that the Republican Party could not take control of either the House or the Senate in the election of 1972?

Mr. STRACHAN. Would you repeat the question?

Senator WEICKER. Did it ever occur to you then or do you realize now that by these actions taken it would be impossible for the Republican Party to take control of either the House or the Senate in the election of 1972?

Mr. STRACHAN. I don't think very many people considered it a reasonable possibility that the Republicans would ever capture the House.

Senator WEICKER. I see. So, in other words, the matter was given up on even before it started?

Mr. STRACHAN. Well, the numbers are simply overwhelming.

Senator WEICKER. Did we have any sort of an election contest—I am not talking outside of the Presidency—was there a contest in 1972 for the House or for the Senate?

Mr. STRACHAN. Of course, and there was considerably more interest in the Senate because there are obviously fewer races and it is easier to concentrate your assets.

Senator WEICKER. Who did we contest the Democrats with is my question?

Mr. STRACHAN. In which races?

Senator WEICKER. Well, that is what I am asking you, where? Apparently Republicans that ran against Democrats were denied support either on the basis of the Democrats' voting record on the war or on the basis of the fact that they enjoyed labor support, and what was left?

Mr. STRACHAN. I would guess the balance. [Laughter.]

Senator WEICKER. I think I have engaged long enough in this subject. The other occurred to me on the basis of information that you gave willingly to the committee the other day, and maybe it puts in proper focus the question as to who are good Republicans and who are bad Republicans, something I seem to hear of a great deal these days.

One last or just two last questions: Have you ever had occasion to converse with Mr. Richard Moore?

Mr. STRACHAN. Yes, I have talked with Mr. Moore several times.

Senator WEICKER. Can you give me the subject matter of those conversations?

Mr. STRACHAN. Well, there would be quite a few. When Mr. Moore joined the staff, he became, as he testified, sort of senior adviser to many of the junior men on the staff, and I accepted gratefully his advice. He took me out to lunch a couple of times.

Senator WEICKER. Let me not—so I don't put you to too great a recounting of your experiences with Mr. Moore, was the last time you met Mr. Moore—well, did you meet Mr. Moore in March of 1973?

Mr. STRACHAN. I could very well have. I don't keep a diary or know what meeting you are asking about.

Senator WEICKER. I am specifically referring to the meeting on the Segretti matter.

Mr. STRACHAN. Yes. I am not entirely certain it was in March, but on a Sunday morning, Dwight Chapin and Mr. Moore and I met regarding the Segretti matter.

Senator WEICKER. And what exactly transpired as between Mr. Moore, yourself, and Mr. Chapin?

Mr. STRACHAN. Well, this meeting was an attempt to prepare, as I understood it, a report from Mr. Moore to the President, describing exactly the Segretti matter.

Senator WEICKER. Did Mr. Moore have any unusual documents in his possession?

Mr. STRACHAN. Yes, sir. He had Dwight Chapin and my FBI form 302.

Senator WEICKER. Mr. Richard Moore showed to you and to Mr. Chapin your FBI 302 files?

Mr. STRACHAN. That is correct.

Senator WEICKER. Did you consider this an unusual procedure? Are these files that are available to everyone? Is this a rather unusual procedure?

Mr. STRACHAN. Well, the files are not available to everyone. Mr. Moore told me that he had received them from Mr. Dean and was working with Mr. Dean on this particular matter.

Senator WEICKER. I don't think there is much further, Mr. Chairman, along this line of questioning that I can get directly from this witness. But I think it very important, considering the rather harsh criticism that was directed against a member of the staff of this com-



mittee in his questioning of Mr. Moore, that at some appropriate time Mr. Moore be called back before this committee to explain this particular activity. Insofar as the staff member, of course, I referred to Mr. Lenzner, who received a great deal of harsh criticism, which I think in light of these facts brought out now, that FBI files were being displayed by Mr. Moore, at least to Mr. Strachan, and then we would have to question Mr. Chapin, that he be brought back before this committee, and I consider probably Mr. Lenzner's questioning entirely appropriate in light of this information.

Senator ERVIN. I would like to interrupt the proceedings to read this. This is a copy of the resolution adopted by the committee:

The Senate Committee on Presidential Campaign Activities hereby unanimously resolves:

1. That the Chairman of the Committee be and he is hereby authorized to issue a subpoena duces tecum requiring the President of the United States to make available to the Committee the electronic tapes and recorded telephone messages recording conversations between him and any other persons relating to alleged criminal acts occurring in connection with the Presidential Election of 1972, such tapes and recordings to be identified in such subpoena.

2. That the Chairman of the Committee is authorized and directed to issue a subpoena duces tecum requiring the President to make available to the Committee any papers in his custody or under his control which tends to prove or disprove the commission of any alleged criminal acts related to the Presidential Election of 1972 which the Committee is authorized to investigate under Senate Resolution 60, such papers to be designated in the subpoena to the maximum extent possible.

Senator INOUE. Pardon me, are you finished, Senator Weicker?

Senator WEICKER. Senator, I have just a few additional questions. I will be glad to wait to go around on the second one.

Senator INOUE. Thank you very much.

Mr. Strachan, in your conference with the staff, you suggested that you were aware of the use of the Internal Revenue Service for political purposes. Could you elaborate on that, sir?

Mr. STRACHAN. Well, the talking papers which John Dean submitted, as I believe exhibits to his testimony, I received probably the originals of those talking papers from Mr. Dean for Mr. Haldeman. They are still in existence in my—or rather in the files in the Executive Office Building, and I prepared a summary talking paper, one page, incorporating those matters mentioned by Mr. Dean and by Mr. Caulfield for a projected meeting between Mr. Haldeman and the Secretary of the Treasury.

Senator INOUE. What procedures were recommended in these talking papers?

Mr. STRACHAN. Well, the suggestion was that the Commissioner of the Internal Revenue Service should be more politically responsive to requests, presumably from the White House staff, or at least from the Secretary of the Treasury.

Senator INOUE. We have received testimony suggesting that the White House made an attempt to place a White House person in the Internal Revenue Service. Were you one of those designated for placement in the Internal Revenue Service?

Mr. STRACHAN. Well, I have practiced tax law in New York. I had hoped to join the Internal Revenue Service, not as one placed there, and that was considered at one point. I decided against it because my move there from being on Mr. Haldeman's staff would be too obviously political, so the suggestion was rejected.

Senator INOUE. Do you know of any discussions involving American citizens who were destined for special treatment by the Internal Revenue Service?

Mr. STRACHAN. One individual in particular was mentioned to me as a person who, when a more politically responsive commissioner had been placed in the Internal Revenue Service, would be subject to a full field audit.

Senator INOUE. Who was this person?

Mr. STRACHAN. Mr. Clark Clifford.

Senator INOUE. Any other person?

Mr. STRACHAN. No. I was asked to contact Mr. Colson's office for a list of 20 people who would be subject to such activity.

Senator INOUE. Did you get this list, sir?

Mr. STRACHAN. I called Mr. Colson's office and it is my understanding that the list was eventually sent to John Dean.

Senator INOUE. Some of us have attempted to determine the specific responsibility or function of Mr. Colson in the White House.

Could you enlighten this committee as to what Mr. Colson was supposedly doing in the White House? What were his responsibilities?

Mr. STRACHAN. Well, he, I believe his official title was special counsel to the President. He emerged, remarkably, from having one staff assistant to having a fairly substantial staff, maybe 20 people. He seemed to be involved in almost every major decision. Originally, I believe, he maintained contact with labor organizations, outside business groups, and he continued to do that. But he would also have suggestions on personnel matters, he would have recommendations as to issue stances. For example, what position the President should take on the question of abortion; that sort of thing.

Senator INOUE. Please proceed, sir. What else did Mr. Colson do?

Mr. STRACHAN. Well, he also contributed political advice, kept track particularly of activities in Massachusetts—pretty across-the-board involvement. He was interested in advertising. He was, for example, the source of the advertisement surrounding the bombing decision.

Senator INOUE. Why were you referred to Mr. Colson for this list? Was that part of his responsibility, this enemy list?

Mr. STRACHAN. Well, it was my understanding that he maintained the list in his office, both friends and people to contact, key leaders in certain areas within the country, and that he would also be able to select those who were leaders who did not support us.

Senator INOUE. Mr. Strachan, you have indicated that you are a specialist in tax matters, and I recall in your testimony that you had been singled out to assist the President in establishing his estate plan. Isn't that correct, sir?

Mr. STRACHAN. Yes, sir, that is correct.

Senator INOUE. Now, you worked with Mr. Ehrlichman to formulate a plan.

Mr. STRACHAN. Yes, sir, that is correct.

Senator INOUE. Now, in the establishment of this estate plan, I gather that you had in mind some tax benefit from the contribution of certain papers and documents to the Government, isn't that correct, sir?

Mr. STRACHAN. Yes, sir. Under the tax law prior to the Reform Act of 1969, there was a provision whereby Presidential papers and documents could be contributed to substantial tax advantage to the donor.

Senator INOUE. Was any distinction made between personal and private papers and public papers, or were they all in one package, sir?

Mr. STRACHAN. Well, that question of law has never been settled. Most Presidents have taken the view that any documents prepared in their public capacity belong to them. Former President Johnson left with something like 20 moving vans full of documents and memorabilia, with no apparent distinction between personal papers that he had drafted and papers that had been prepared by other members of the Government for him.

Senator INOUE. Were the tapes that we have been discussing today a part of the estate of Richard M. Nixon? Part of the estate plan?

Mr. STRACHAN. Well, usually, the description of the assets which would be transferred would be extraordinarily broad. Terms such as "materials" would be used to include everything—papers, memorabilia, State gifts, tapes, photographs, almost anything related to the Presidency.

Senator INOUE. Were you aware that the tapes that have been under discussion the last few days were considered as part of the estate plan of the President?

Mr. STRACHAN. No, I did not know of the existence of those tapes until Mr. Butterfield's testimony.

Senator INOUE. Now, you have said that you prepared several political memos which were passed on to Mr. Haldeman. Are you aware if these memos were ever seen by the President?

Mr. STRACHAN. No, and I would doubt that they were, because memorandums which I drafted for Mr. Haldeman, that he reviewed with the President, would usually concern polling matters, and he would put a "P" up in the upper right-hand corner, indicating that he would want to take it in and cover it with the President, then it would come back to me with a checkmark through the "P," indicating that he had covered it with the President. And I do not remember, and I am certain that I would, that any of my political matters memos were covered with the President in that form.

Senator INOUE. My final question before we recess for a few moments. Mr. John Dean has stated that he recalled visiting you in your office in the presence of Mr. Richard Moore and recalling your saying that you would, if necessary, perjure yourself to prevent involving Mr. Haldeman.

Just for the record, is that still the frame of your mind?

Mr. STRACHAN. Well, it is certainly not the frame of my mind now, and it wasn't at the time. The particular meeting or conversation that Mr. Dean, I believe, is referring to followed a series of meetings to decide how to cope with the Segretti matter. Mr. Dean testified that there was a Sunday meeting in the Roosevelt room, and he listed the attendees, trying to deal with the imminent story on Mr. Segretti. Mr. Dean did not mention my name, yet I was at that meeting.

There were a series of meetings after that, and I believe one of them was the meeting in question with Mr. Moore. We were working on statements that could be put out to the press by the White House, such as the one that Mr. Chapin eventually released, and I indicated at that time that if the statement was to be released in my name, it could indicate that I had approved Don Segretti instead of Mr. Haldeman.

I regretted that at the time, but as Mr. Dean has indicated, it was a fairly common practice in the White House.

For example, Fred Malek assumed responsibility for authorizing the FBI investigation on Mr. Schorr, Mr. Colson assumed the responsibility for the 1970 attack ads. Neither of those were true, but that was the statement that was put out.

Senator INOUE. You did not say at any time that you would perjure yourself not to involve Mr. Haldeman?

Mr. STRACHAN. No, sir, I did not. There was no pending body where I would take an oath. And have to make a statement. And in fact, when I eventually was asked that particular question before the grand jury on April 11, who approved the hiring of Donald Segretti, I answered Mr. Haldeman did.

Senator INOUE. So this is one instance where you are maintaining that Mr. Dean's memory failed him?

Mr. STRACHAN. Yes, I think it is probably, as Dick Moore described it, subject to Ervin's law.

Three people in a meeting remember the context of the discussion.

I regret having made the statement, but on the White House staff, there was an overwhelming and frequently inappropriate sense of loyalty, and in that context, I made such an offer and regret it.

Senator INOUE. I wish I could continue, sir, but we have a vote, so the committee will stand in recess until the return of the chairman.

[Recess.]

Senator ERVIN. Mr. Strachan, as I understand your testimony, before Magruder went to Key Biscayne to meet with John Mitchell, he told you about a number of things that he was going to take up for decision by Mr. Mitchell, and you made one of your written reports to Mr. Haldeman about the matters that Magruder had told you he was going to take up with Mr. Mitchell.

Mr. STRACHAN. Mr. Chairman, I believe my testimony is that Mr. Magruder called me after the discussion of the Key Biscayne decisions and I reported those decisions after they had been made, to Mr. Haldeman in the political matters memorandum.

Senator ERVIN. Well, thank you; I had not understood you right.

It was after he got back from Key Biscayne—he told you about the decisions he had made?

Mr. STRACHAN. That is correct. He reviewed the 30 or so pending decisions and what had been decided.

Senator ERVIN. And one of those decisions he said was that Mr. Mitchell had authorized these sophisticated intelligence operations?

Mr. STRACHAN. Yes, sir; that was one of the decisions that he indicated had been approved at the meeting.

Senator ERVIN. And then you made a report to Mr. Haldeman reporting that Mr. Magruder had informed you that the following decisions had been made by Mr. Mitchell at Key Biscayne and you enumerated among those decisions the approval of the sophisticated intelligence operation at a budget of 300, as you put it?

Mr. STRACHAN. That is correct.

Senator ERVIN. Then later, that paper was returned to you with a checkmark indicating, according to the custom of Mr. Haldeman, that Mr. Haldeman had read that?

Mr. STRACHAN. That is correct.

Senator ERVIN. Then, when Mr. Mitchell came back to Washington from Key Biscayne, I believe you said sometime on about the 4th or the 5th, that you got a signal to listen to a phone call of Mr. Haldeman to Mr. Mitchell in which they discussed a meeting and that they were to hold, and you talked about, Mr. Haldeman saying facetiously, he ought to stay down in Florida because the weather or something was better down there?

Mr. STRACHAN. That is correct.

Senator ERVIN. Then, you prepared what you called a talking paper in which you put the agenda for the proposed meeting between Mr. Haldeman and Mr. Mitchell, that Mr. Haldeman should discuss this sophisticated intelligence operation.

Mr. STRACHAN. Yes, sir; that is correct.

Senator ERVIN. And then later was the talking paper returned to you?

Mr. STRACHAN. Yes, it was.

Senator ERVIN. And you filed not only the report that you had sent on the basis of the information from Mr. Magruder as to what had been decided but you also filed the talking paper or was that preserved?

Mr. STRACHAN. Yes, sir, the talking paper was returned in the package of folders surrounding political matters, memo 18.

Senator ERVIN. So there is no doubt in your mind that Mr. Haldeman knew of the sophisticated intelligence operation, whatever that was?

Mr. STRACHAN. No, there is no doubt in my mind.

Senator ERVIN. Yes.

Then, after the break-in at the Watergate became known, you had a conversation with Mr. Haldeman in which Mr. Haldeman told you to clean the files or see that the files were cleaned or something like that. What was the expression?

Mr. STRACHAN. He told me "Make sure our files are clean."

Senator ERVIN. Yes.

Now, you construed that to mean to get rid of any papers in the files that might be what you might call "dirty papers" which might reveal any matter about this sophisticated intelligence operation, did you not?

Mr. STRACHAN. That was the very clear impression left in my mind.

Senator ERVIN. Yes.

Then, so acting upon that impression you had the record which showed that you had communicated the sophisticated intelligence operation to Mr. Haldeman, shredded?

Mr. STRACHAN. Yes, sir, that is correct.

Senator ERVIN. And did you also shred the talking paper referring to that matter?

Mr. STRACHAN. Yes, sir, I did.

Senator ERVIN. And then later you were on the plane, I believe you said, Air Force One, on the trip in which Mr. Haldeman was present, and you mentioned then that you had shredded these papers referring to this matter?

Mr. STRACHAN. Yes, sir, that is correct.

Senator ERVIN. And he did not tell you at that time that you had shredded the wrong papers, did he?

Mr. STRACHAN. No, sir, he did not.

Senator ERVIN. Senator Inouye, you may resume. I thought I could finish, as I have, while you were coming back.

Senator INOUE. Just one question. I am glad the chairman came up on the shredding business. Did you shred the papers, the documents, because you felt that the contents had criminal activity?

Mr. STRACHAN. No, I shredded the documents because I had been instructed to do so, and also because I felt if they ever became public they would be politically embarrassing.

Senator INOUE. You were aware of the contents, were you not? You read the contents?

Mr. STRACHAN. Yes, I reread them many times.

Senator INOUE. It is your opinion that the contents did not suggest any illegality or criminal activity?

Mr. STRACHAN. No. The papers suggested matters which if they became public, would be embarrassing.

Senator INOUE. Thank you, sir.

Thank you, Mr. Chairman.

Senator ERVIN. Senator Gurney.

Senator GURNEY. Mr. Strachan, back to that shredding business, one final question. Had Mr. Haldeman ever said to you before "clean up our files"?

Mr. STRACHAN. No, sir, he had not.

Senator GURNEY. This was the first time you had done any shredding for him pursuant to these instructions?

Mr. STRACHAN. That is correct. I had done a great deal of shredding before that, however, in terms of copies and keeping the files in order. I had been instructed when I first joined the staff to keep copies of documents related to the campaign, and I made a very genuine effort to do that.

Senator GURNEY. Those were, that was done on your own though, not from instructions from Mr. Haldeman?

Mr. STRACHAN. To keep copies of materials from the campaign?

Senator GURNEY. No, about the shredding you are talking about, the other shredding.

Mr. STRACHAN. No, our office had a shredder right in it that was used a great deal to eliminate copies, papers that had been replaced by other papers. It was used regularly by the staff assistants as well as the secretaries.

Senator GURNEY. You mentioned this morning, somebody interrogating you asked you, about coverup information, did you attend any of the meetings where coverup was discussed and you said, "no, I do not think so."

Will you discuss that further, were there any such meetings, that you think so or do you think so?

Mr. STRACHAN. Well, I did not attend any of the meetings which have become highly publicized.

Senator GURNEY. Did you know there were meetings going on on coverup?

Mr. STRACHAN. No, I did not.

Senator GURNEY. You said that Mr. Haldeman had discussed intelligence-gathering at several meetings. Can you give us any more information on that, when these were held, and who was present?

Mr. STRACHAN. Yes, sir. On June 30, 1971, I prepared a talking paper for a meeting that had been scheduled for Mr. Haldeman and Mr. Mitchell at which the subject of political intelligence was raised. At that particular meeting the Sandwedge proposal was raised as a subject for discussion.

Senator GURNEY. Who was present?

Mr. STRACHAN. Mr. Mitchell and Mr. Haldeman.

Senator GURNEY. What other meetings can you recall?

Mr. STRACHAN. On November 4, 1971, there was a meeting between Mr. Haldeman, Mr. Mitchell, Mr. Magruder, and myself at which the subject of political intelligence was discussed.

Senator GURNEY. Was any wiretapping or bugging discussed at that meeting?

Mr. STRACHAN. No, sir.

Senator GURNEY. What was discussed? How were you going about getting political intelligence?

Mr. STRACHAN. Well, at that time it was a matter of discussion. I do not believe any decisions had been made. It was just a subject of discussion. Mr. Mitchell mentioned Mr. Liddy's name. I had not heard the name before, and in my notes of the meeting I spelled it L-i-d-d-e-e.

Senator GURNEY. But you must have discussed ways and means of going about getting political intelligence at that meeting, did you not?

Mr. STRACHAN. The only specific matter, and I have gone back through my files and looked at the notes on that meeting; the only specific item that was mentioned was the surveillance of Senator Kennedy.

Senator GURNEY. How was that going to be done?

Mr. STRACHAN. Well, it had been my understanding, based on my discussion with John Dean, that there was to be a 24-hour tail on Senator Kennedy. I learned later from John Dean that that had been cut down to periodic. I did not know that Mr. Dean had, through Mr. Higby, persuaded Mr. Haldeman to rescind that directive.

Senator GURNEY. That was one of the subjects discussed at this meeting that you are talking about?

Mr. STRACHAN. That is correct.

Senator GURNEY. What else was discussed? Where was this meeting anyway?

Mr. STRACHAN. In Mr. Haldeman's office.

Senator GURNEY. What else was discussed?

Mr. STRACHAN. There were a whole series of campaign matters.

Senator GURNEY. I am talking about the surveillance, that is what we are talking about.

Mr. STRACHAN. It was mentioned very briefly, I believe Mr. Mitchell indicated that no decision had been reached on political intelligence because the parties were not correct. I called up Mr. Dean after the meeting, indicated to him the discussions.

Senator GURNEY. Were there any other meetings where political intelligence was discussed that you know about?

Mr. STRACHAN. Yes, sir.

On December 17, 1971, I prepared a talking paper, again for a meeting between Mr. Haldeman and Mr. Mitchell, at which the subject of political intelligence was to be discussed.

Senator GURNEY. Were you present?

Mr. STRACHAN. No, sir, I was excluded expressly from that meeting as I had been from the June 30 meeting.

Senator GURNEY. Do you know from what anybody may have told you after the meeting what was discussed?

Mr. STRACHAN. Well, I recall the questions that I posed in the talking paper. One of the questions was, should John Dean become the control point rather than merely the White House contact for political intelligence? The answer that I got from Mr. Haldeman was that he should continue to be the White House contact. The other question posed and which I did not get an answer, should Mr. Liddy be the one man responsible for political intelligence?

Senator GURNEY. No answer to that one?

Mr. STRACHAN. No, sir, not that I recall.

Senator GURNEY. Do you know whether wiretapping or bugging was discussed at that meeting?

Mr. STRACHAN. Well, it surely was not proposed in the talking paper and I have no way of knowing whether it was discussed at the meeting.

Senator GURNEY. Are there any other meetings that you can remember where political intelligence was discussed?

Mr. STRACHAN. No, sir.

Senator GURNEY. You testified this morning that you monitored the Haldeman and Mitchell phone call after the meeting at Key Biscayne. How often did you monitor phone calls for Mr. Haldeman?

Mr. STRACHAN. I kept a file, and I always made a note of the phone calls that I monitored in a separate file entitled "Notes." I have been back to that file. I would guess the number of pieces of paper in there are somewhere close to 40 or 50. But when I went back to that file, I did not go expressly for the purpose of counting the number of phone calls that I have monitored.

Senator GURNEY. Did you monitor any other phone calls where the subject of conversation had to do with Watergate?

Mr. STRACHAN. No, sir.

Senator GURNEY. None at all?

Mr. STRACHAN. None.

Senator GURNEY. Did any conversations that you monitored have to do with political intelligence gathering?

Mr. STRACHAN. A conversation, I believe, shortly after the June 30 meeting between Mr. Haldeman and Mr. Mitchell, which I monitored, discussed the Ellsberg matter at length. But there was not a reference at that time to political intelligence.

Senator GURNEY. When was this?

Mr. STRACHAN. This was, I believe, after the June 30 meeting, 1971.

Senator GURNEY. What was the substance of the conversation?

Mr. STRACHAN. Mr. Mitchell was reviewing for Mr. Haldeman the investigations that were ongoing regarding Ellsberg following the leak of the Pentagon Papers. He referred to a person at the State Department who had leaked some information to Mr. Ellsberg. He referred to an official at the Defense Department who had admitted disclosing confidential national security information. My notes on the conversation run six or seven pages. It was quite an extensive discussion.

Senator GURNEY. What was the date of this again, did you say?



Mr. STRACHAN. Well, I cannot take notes in the Executive Office Building, but my best recollection is that it was shortly after the June 30, 1971, talking paper.

Senator GURNEY. You testified that you prepared political memos daily, as I recall, from Mr. Haldeman and some of them were rather lengthy. Where did you get your information that went into these memos?

Mr. STRACHAN. The memorandums were not prepared daily. They would be prepared as frequently as once a week, usually once every 2 weeks, sometimes as late as once every 3 weeks, and I would get the information by talking to people on the White House staff who were politically active, such as Mr. Dean or Mr. Colson; people in the States, and particularly California, in which Mr. Haldeman had quite an interest; people at 1701.

Senator GURNEY. Who did you contact at the Committee To Re-Elect the President?

Mr. STRACHAN. I would try to contact many of the senior individuals personally.

Senator GURNEY. Who?

Mr. STRACHAN. Mr. Teeter for the polling information; Mr. Dailey, Mr. Joanou for advertising information; Mr. Flemming for reports on the field organization; Mr. Marik for reports on general research done in the campaign. There was a fellow in charge of direct mail, Bob Morgan.

Senator GURNEY. How about Magruder? Did you talk to him?

Mr. STRACHAN. Definitely.

Senator GURNEY. How often?

Mr. STRACHAN. Probably daily.

Senator GURNEY. What kind of information did he give you?

Mr. STRACHAN. Well, most memorandums submitted to Mr. Mitchell would be submitted through Mr. Magruder; that is, the memorandums to Mr. Mitchell would have Mr. Magruder's signature on them, and his office would be a funnel for much of the information, if they had decided that internal disputes had been resolved at 1701, to send copies of memorandums to me.

Senator GURNEY. How often did Magruder send you memorandums?

Mr. STRACHAN. I received packages of information from the committee daily.

Senator GURNEY. But your testimony is that he never told you anything about surveillance or wiretapping and bugging, is that correct?

Mr. STRACHAN. That is correct.

Senator GURNEY. The \$350,000—do I understand—I can't understand why this went to this Lilly. This was supposed to be used in the White House for polling or something in connection with the campaign. Why would you pick it up and then it be given to somebody who later gave it to somebody else? What was the point of that?

Mr. STRACHAN. Well, various pollsters who would conduct the polls for us would have to be paid and neither Mr. Butterfield nor I could go very far from the White House physically.

Senator GURNEY. Well, what about Lilly? Is he connected with the White House at all?

Mr. STRACHAN. No, he is not. He is a personal friend of Mr. Butterfield who could travel.

Senator GURNEY. Why would he, not connected with the White House at all, be given \$350,000 worth of money that was supposed to be used in this campaign in one way or another?

Mr. STRACHAN. Because he could take the cash to a polling organization in Princeton or if we conducted one in California, to the pollster in California.

Senator GURNEY. How many people were on the White House staff during this period of time?

Mr. STRACHAN. Well, there is quite an argument as to who is officially on the White House staff and who isn't. I would guess somewhere in the neighborhood of 400, but that is just a ballpark guess.

Senator GURNEY. Don't you think it would be possible to find one of these 400 who could have been entrusted with the custody of the \$350,000?

Mr. STRACHAN. Yes, and that was one of the alternatives posed to Mr. Haldeman in the memorandum.

Senator GURNEY. But why would it be given to somebody totally unconnected with the White House? That is a very large sum of money which would be used in this campaign.

Mr. STRACHAN. Well, Mr. Butterfield indicated that he had known the man for a long time, that he was able to travel and that he would be willing to accept the custody of the cash. Mr. Dean had indicated that neither he nor anyone that he could think of on the White House staff would be able to do it.

Senator GURNEY. You mean not one of those 400 would be able to have custody of this \$350,000?

Mr. STRACHAN. Well, I am not sure how many people Mr. Dean asked. He told me that he would not be able to arrange for the holding of the money fairly close to the campaign spending law enactment date, and so I scrambled for some alternatives to present to Mr. Haldeman.

Senator GURNEY. Was Mr. Liddy somebody—Lilly, I guess—somebody who constantly handled large sums of money in custody for other people?

Mr. STRACHAN. I don't know. I have never met the man.

Senator GURNEY. When the \$350,000 was returned, you had left the White House staff, hadn't you?

Mr. STRACHAN. That is correct.

Senator GURNEY. Why was it that you returned it and not somebody who was working at the White House then?

Mr. STRACHAN. It was just one of the matters that I had been asked to do before I left the White House staff that I hadn't wrapped up. It was like my functions with the Kennedy Center. I was Mr. Haldeman's staff man and I went to a meeting on his behalf in January, although I was off the White House staff. It was a matter—the last matter that I had not taken care of prior to leaving.

Senator GURNEY. Cleaning up pieces of business?

Mr. STRACHAN. That is correct.

Senator GURNEY. I don't have any further questions, Mr. Chairman.

Senator ERVIN. Senator Baker.

Senator BAKER. Mr. Chairman, thank you very much. I thank Senator Talmadge for letting me go out of sequence so I can take care of another matter shortly and then return to the committee.

Mr. Strachan, I don't have many questions. You have covered most of the material that I would have covered earlier in the questioning. But I do have a few things.

I would like to ask you about the \$300,000 that was referred to in the conversation on March 30, 1972, to the effect that 1701 now had a sophisticated political intelligence gathering system with a budget of 300. You have indicated to us that that meant \$300,000. This was to be included in the memorandum or possibly in the so-called tab H that went to Mr. Haldeman.

Is that correct, sir?

Mr. STRACHAN. No, that statement was included in the original cover memorandum. Tab H was the attachment, Sedan Chair II.

Senator BAKER. All right, fine.

But this is the first time I have heard of \$300,000 in that connection. Are we talking about the Liddy transaction?

Mr. STRACHAN. Presumably.

Senator BAKER. All our testimony so far has indicated \$250,000. Are you aware of that?

Mr. STRACHAN. Yes, I am.

Senator BAKER. Can you explain to me how it changed from \$250,000 to \$300,000?

Mr. STRACHAN. No, sir, I have no explanation for that other than that I wrote down what Mr. Magruder told me.

Senator BAKER. You are certain in your mind that Mr. Magruder told you \$300,000 for the budget, for the Liddy budget?

Mr. STRACHAN. Yes, sir, I wrote down 300 as he told me on the telephone and completed the political matters memo within a day or two.

Senator BAKER. And March 30, 1972, I believe, would have been the day after the meeting in—the conversation was on the 31st, wasn't it, between you and Mr. Magruder?

Mr. STRACHAN. The telephone conversation wasn't long enough for either Mr. Magruder or me to remember specifically. My best reconstruction of the events was that it was on the 31st.

Senator BAKER. All right, and the meeting in Key Biscayne where the amount was set, \$250,000, according to other witnesses, was on the 30th, the day before. So no great period of time went by between the time when allegedly the \$250,000 Liddy budget was set and the following day, when Mr. Magruder passed on to you the information that it was \$300,000 instead of \$250,000.

What I am driving at is, do you know whether or not the Liddy plan was in fact funded at \$250,000 or \$300,000?

Mr. STRACHAN. No, sir, I do not know.

Senator BAKER. Did any money ever come into your possession or into Mr. Magruder's possession for disbursement to Mr. Liddy?

Mr. STRACHAN. Not to my knowledge.

Senator BAKER. Did you ever have an accounting of Mr. Liddy's expenditures that came to your office or was brought to your attention?

Mr. STRACHAN. No, sir.

Senator BAKER. So you have no idea how we can reconcile the difference in the Liddy budget between \$250,000 and \$300,000?

Mr. STRACHAN. No, sir, I do not.

Senator BAKER. Let's talk about another amount. We heard of the \$350,000 that was received from CRP and brought to the White House for polling and the like. That occurred on April 6, is that right?

Mr. STRACHAN. Either April 6 or April 7.

Senator BAKER. OK. And you picked up the \$350,000 in cash and brought it to the White House and it was delivered to—who was it delivered to?

Mr. STRACHAN. Well, I went over to 1701 and picked it up and brought it back to Mr. Butterfield and stayed with him in his office as we counted it.

Senator BAKER. Did Mr. Butterfield take possession of the money?

Mr. STRACHAN. Yes, we counted it and he took possession of the money.

Senator BAKER. And it was all in cash?

Mr. STRACHAN. That is correct.

Senator BAKER. In what denominations?

Mr. STRACHAN. \$20's, \$50's, \$100's.

Senator BAKER. Were you aware of the contention that it was to be used for polling?

Mr. STRACHAN. Oh, definitely. It had been discussed as a need for September—independent polling, several months before.

Senator BAKER. Did you discuss at that time why on earth you would pay a polling agency in cash?

Mr. STRACHAN. No, sir, other than the fact that we did not want the Committee To Re-Elect the President to know that we were conducting independent polling.

Senator BAKER. Why didn't you want the Committee To Re-Elect the President to know?

Mr. STRACHAN. Well, they were conducting extensive polling also and we would want to run polls to doublecheck their results. And also polls were conducted under Mr. Haldeman's direction on matters unrelated to the campaign, personal questions.

Senator BAKER. I am not being argumentative. I am just trying to find out. Why wouldn't it have been better to have a bank account for that purpose? Why on earth—wouldn't cash be the most awkward way you could pay a bill to an established and reputable polling company?

Mr. STRACHAN. I would imagine that is correct.

Senator BAKER. Was it in fact used to pay the polling company?

Mr. STRACHAN. No, it turned out that we incurred over the course of the campaign something in excess of \$100,000 or \$110,000 in private polling expenses. Mr. Stans and the committee had substantial assets at the end and Mr. Dean arranged with Mr. Stans to pay that private polling expense out of ordinary campaign funds and not use any part of the \$350,000.

Senator BAKER. So if I understand the picture, the Committee To Re-Elect the President was doing polling; maybe the National Republican Committee was doing polling; but Mr. Haldeman was doing polling, too?

Mr. STRACHAN. That is correct.

Senator BAKER. And the \$350,000 initially was for Mr. Haldeman's private purposes, that is, to be kept secret from the Committee To Re-Elect the President or the Republican National Committee?

Mr. STRACHAN. And almost all members of the White House staff.

Senator BAKER. Did Mr. Ehrlichman know about it?

Mr. STRACHAN. Not to my knowledge.

Senator BAKER. Did Mr. Mitchell know about it?

Mr. STRACHAN. I am not sure. Not to my personal knowledge. I think he knew about the fact that Mr. Haldeman wanted \$300,000 to \$350,000 for private polling.

Senator BAKER. Did the President know about it?

Mr. STRACHAN. The President knew we conducted extensive private pollings. I surely cannot speak as to whether he even worried about how it was paid for.

Senator BAKER. Do you know whether he knew or do you have any indication that he knew or did not know of the \$350,000 cash account that was in Mr. Butterfield's custody?

Mr. STRACHAN. No, I have no information about that at all.

Senator BAKER. But it is your best impression that the President knew that private Haldeman polling was being undertaken separate and aside from the Committee To Re-Elect the President or the Republican National Committee?

Mr. STRACHAN. Yes, sir, because on numerous occasions I would walk into the Oval Office with the polling results and hand them to Mr. Haldeman.

Senator BAKER. I am still not quite sure why you would want to have separate polling. To check their results, meaning the Committee To Re-Elect the President. But why would you want to check their results? If you had reputable polling firms, why would you feel constrained to check the results?

Mr. STRACHAN. Well, all polls differ. Harris differs from Gallup, differs from Opinion Research, differs from Teeter's results. We had confidence in the particular polling firm that we had used. They gave us particular demographic information that we wanted. But one of the primary reasons for having a separate polling capability was the confidentiality of the questions and the results. Not all polls concerned the campaign.

Senator BAKER. The point I am driving at, Mr. Strachan, and I am not imputing to you any sort of misconduct or impropriety, but the point I am driving at is the very fact that private polling was being undertaken by Mr. Haldeman secretly and concealed from the Committee To Re-Elect the President, and presumably from the Republican National Committee, implies some sort of competition or distrust of the Committee To Re-Elect the President or the existing Republican organization, the Republican National Committee. Can you enlighten me in that respect? Do you have any insight or any information that would confirm or contradict that suspicion?

Mr. STRACHAN. Well, yes, there was definitely a feeling of distrust of the Committee To Re-Elect the President in the sense of the confidentiality of the polling that they were conducting. There were numerous times when the number of people who would have access to the polling results was cut down.

One time I had quite an argument with Mr. Magruder because I had been instructed by Mr. Haldeman that I was to tell Mr. Magruder in Mr. Mitchell's presence that he was not having access to the polling information, and that he should leave the meeting. There was a con-

siderable amount of distrust, that the more people who had the information, the more likely it would be to leak out.

Senator BAKER. I will not pursue that much further, but the image that is coming through to me, Mr. Strachan, and correct me if you disagree with it, the image that comes through to me is that the Republican National Committee did not run the race, the Committee To Re-Elect the President was set up for that purpose but even it did not entirely run the race, and Mr. Haldeman and certain people in the White House had a separate organization that was concealed and separate from both the Committee To Re-Elect the President and the Republican National Committee. Is that fair to say, according to your experience at the White House, or not?

Mr. STRACHAN. Well, it is fair to say that the Republican National Committee played a very small role in the campaign. The Committee To Re-Elect the President played a very large role; Mr. Haldeman's role in the polling area was also substantial.

Senator BAKER. But in any event, the \$350,000 was never paid to the polling organization or organizations employed by Mr. Haldeman?

Mr. STRACHAN. That is correct.

Senator BAKER. In fact, it was paid in a more routine and ordinary way when other funds were used. Were those other funds paid by check as distinguished from cash?

Mr. STRACHAN. It is my understanding. I know Mr. Dean arranged it with Mr. Stans, and I believe it was paid, as were many bills, at the conclusion of the campaign as polling expenses incurred during the campaign.

Senator BAKER. So the initial concern for secrecy dissipated at some point and you did in fact pay by means other than the cash that you had sought for that purpose.

We have some information that \$350,000 was also used in part for newspaper advertisement. I believe you indicated as much, Mr. Strachan.

Mr. STRACHAN. Yes. Part of the \$350,000 was in newspaper ads.

Senator BAKER. And \$328,000 was left, I believe, and you cannot remember whether the ad cost \$7,000 and \$15,000 was returned or the ad cost \$15,000 and \$7,000 was returned. Is that a fair summation?

Mr. STRACHAN. I cannot recall. The money was in an envelope and the two figures were mentioned orally in a meeting between Mr. Dean, Mr. Howard, and myself and I simply do not recall.

Senator BAKER. Do you know how much the ad cost?

Mr. STRACHAN. No, I do not.

Senator BAKER. Did you not try to find out in preparation for your testimony?

Mr. STRACHAN. The prosecutors indicated when I mentioned this to them much earlier, that I should not talk with Mr. Howard and try to reconstruct any aspect of the handling of the money, and I have not talked to Mr. Howard nor Mr. Dean, for that matter.

Senator BAKER. Did you testify before the grand jury on this amount of money?

Mr. STRACHAN. Concerning the \$350,000?

Senator BAKER. Yes, or the \$328,000.

Mr. STRACHAN. Concerning the \$328,000 I recall I was asked if the \$350,000 was intact, and it was, and I said, yes.

Senator BAKER. Did you ever mention the figure \$328,000 before the grand jury?

Mr. STRACHAN. No; I simply was not asked the question.

Senator BAKER. Did Mr. Haldeman ever make any statement to the grand jury that you are aware of about the sum, whether \$328,000 or \$350,000?

Mr. STRACHAN. Did Mr. Haldeman mention that—

Senator BAKER. Yes, sir; or did Mr. Haldeman ever discuss that sum with you, the \$328,000 as distinguished from \$350,000?

What I am trying to get at, Mr. Strachan, is what was told to the grand jury about the amount of money involved and whether or not there was, in fact, \$22,000 that was returned to this fund or \$22,000 less the amount of the ad. It is pretty fuzzy and I am trying to find out if all the money got back, and we are left with an uncertainty about whether the ad cost \$15,000 or \$7,000—it is a pretty good bite. I am trying to find out whether that money, in fact, did get back or not. Can you tell me with certainty that all that money was returned?

Mr. STRACHAN. No; I cannot tell you with certainty that all the money was returned.

Senator BAKER. Did you tell the grand jury and Mr. Haldeman the same thing about this money?

Mr. STRACHAN. Yes, sir.

Senator BAKER. Do you have any information, Mr. Strachan, of anyone skimming, do you know what I am talking about?

Mr. STRACHAN. Yes; I know what you are talking about.

Senator BAKER. I am talking about people pocketing some of this cash that was floating around. Do you know anything about that?

Mr. STRACHAN. Well, I know that I did not get any [laughter] and I do not know if anyone else did.

Senator BAKER. You do not know if anyone else did or that anyone else did or how did you say that, I am sorry?

Mr. STRACHAN. The answer is, I do not know whether anybody got any money or not.

Senator BAKER. OK. Do you have any suspicion that someone did?

Mr. STRACHAN. Well, there is an awful lot of confusion about the figures which would indicate some suspicion, but I have no direct knowledge.

Senator BAKER. Do you have any leads you can give us that we can pursue? I am not trying to put you on the spot nor ask you to make an allegation against someone without substantial evidence, but can you suggest any areas of inquiry that we might follow on the question of skimming?

Mr. STRACHAN. None other than talking to the people who are mentioned in connection with the money.

Senator BAKER. Which ones? Let me ask you this, rather than take your time now and I know there is another vote signal on the clock. Are you agreeable to talking to staff further on that subject at a later date, Mr. Strachan?

Mr. STRACHAN. Oh, definitely.

Senator BAKER. Thank you very much. Thank you.

There is a vote in progress now, and Senator Talmadge remains and I believe Senator Weicker has a few additional questions. Senator Weicker has volunteered to go forward with the balance of his questions while I go vote and we will be back just as soon as possible.

Mr. Strachan, we have 10-minute vote sequences and I do not think it is possible to continue so we will recess now until we can return for further investigation.

[Recess.]

Senator TALMADGE [presiding]. The committee will please come to order.

Insofar as I know, there is nothing in the record to date as to the time the President of the United States first had knowledge of the break-in of the psychiatrist of Mr. Ellsberg. Do you know?

Mr. STRACHAN. No, sir. I do not.

Senator TALMADGE. You have no knowledge of that fact?

Mr. STRACHAN. I have no knowledge of that.

Senator TALMADGE. There has been a good deal of speculation and testimony that both Mr. Haldeman and Mr. Ehrlichman ran what's known as a very tight ship at the White House. Through your close association with the two men and particularly Mr. Haldeman, would you agree with that statement?

Mr. STRACHAN. Yes, sir, a very tight ship.

Senator TALMADGE. They were the President's closest advisers and confidants, were they not?

Mr. STRACHAN. On domestic matters, yes.

Senator TALMADGE. Which one of the two knew more about political matters?

Mr. STRACHAN. Well, from an issue standpoint, I would guess that it would be Mr. Ehrlichman.

Senator TALMADGE. And, Mr. Haldeman?

Mr. STRACHAN. From a personality or polling standpoint, I would guess it would be Mr. Haldeman.

Senator TALMADGE. Would Mr. Haldeman make decisions relating to political matters, or Mr. Ehrlichman?

Mr. STRACHAN. I am not familiar with decisions that Mr. Ehrlichman made. I know decisions that Mr. Haldeman made were in political matters.

Senator TALMADGE. When matters of importance to the campaign such as memorandums to Mr. Mitchell and others were sent to Mr. Haldeman, would he bring those to the attention of the President?

Mr. STRACHAN. I can't specifically recall ever seeing a memorandum from Mr. Mitchell to Mr. Haldeman. They communicated primarily in private meetings. There were maybe a half dozen memorandums from Mr. Haldeman to Mr. Mitchell that I saw.

Senator TALMADGE. Did Mr. Haldeman immediately bring to the attention of the President matters that he considered important?

Mr. STRACHAN. I simply don't know that. I would assume that he did, but I don't know that for a fact.

Senator TALMADGE. Would it be a reasonable assumption on your part that as soon as Mr. Haldeman had knowledge of the Watergate break-in, he would bring it to the attention of the President?

Mr. STRACHAN. You are asking for my opinion?

Senator TALMADGE. Yes.

Mr. STRACHAN. That would be my opinion, yes, sir.

Senator TALMADGE. Now, you have mentioned in your previous testimony that you knew something about the Segretti matter. What did you know and when did you learn about it?



Mr. STRACHAN. Well, Dwight Chapin and I began in June or July of 1971 discussing the probable need in the campaign for a Dick Tuck type capability. At some point, one or the other of us mentioned the possibility of Don Segretti as a person we had known together in college.

Senator TALMADGE. What do you mean, a Dick Tuck type of capability?

Mr. STRACHAN. A prankster, a political jokester.

Senator TALMADGE. All right, proceed, please.

Mr. STRACHAN. The subject was discussed and in late August of 1971, in a meeting between Mr. Haldeman, Mr. Kalmbach, and myself, Mr. Haldeman authorized Mr. Kalmbach to pay the salary and expenses of Mr. Segretti.

Senator TALMADGE. For what purpose?

Mr. STRACHAN. To engage in Dick Tuck type activities.

Senator TALMADGE. What, for instance? Name some of them.

Mr. STRACHAN. Excuse me, Senator?

Senator TALMADGE. What, for instance? Name some of them, the instances you are referring to.

Mr. STRACHAN. Well, to go to, for example, a Muskie rally and have a sign that would say, "This is Humphrey territory."

Senator TALMADGE. Nothing any worse than that? [Laughter.]

Mr. STRACHAN. Well, we discussed a series of activities, none of them illegal. Mr. Tuck had quite a reputation for being an ingenious individual and we thought that Mr. Segretti would likewise be ingenious.

Senator TALMADGE. Well, to attend a rally of that type and claim it was somebody else's territory with one sign would be a waste of money, would it not?

Mr. STRACHAN. That is why expenses were authorized to Mr. Segretti, so that there would be more than one person with a sign.

Senator TALMADGE. Now, you were interviewed by the FBI in August 1972?

Mr. STRACHAN. Yes, sir; I was.

Senator TALMADGE. What was the scope of that inquiry?

Mr. STRACHAN. Entirely the Segretti matter.

Senator TALMADGE. They didn't ask you anything about Watergate at all?

Mr. STRACHAN. No, sir.

Senator TALMADGE. Didn't ask you anything about Mr. Haldeman's involvement or lack of involvement?

Mr. STRACHAN. No, sir.

Senator TALMADGE. Were you surprised that those matters were not brought up in the interrogation?

Mr. STRACHAN. I was surprised that the FBI did not ask me more probing questions, even about Segretti.

Senator TALMADGE. Now, you testified that you presumed Mr. Dean would be handling the Watergate matter. Were you aware of any investigation that had been carried on by Mr. Dean into the Watergate affair in the summer or fall of last year?

Mr. STRACHAN. Well, I knew that I had talked with Mr. Dean and explained to him what I knew about the Segretti matter. I knew that Mr. Chapin had similarly talked with Mr. Dean. I did not know whether his investigation went further than that or not. I had discussed those matters with him in the summer of 1972.

Senator TALMADGE. You cannot answer positively yea or nay, then, is that correct?

Mr. STRACHAN. That is correct, Senator.

Senator TALMADGE. Now, Mr. Butterfield stated that Mr. Haldeman and Mr. Higby knew that the White House was bugged. Did you know that?

Mr. STRACHAN. No, sir, I did not.

Senator TALMADGE. Is it reasonable to agree with Mr. Butterfield that Mr. Ehrlichman did not have knowledge of that fact?

Mr. STRACHAN. Yes, sir, it is.

Senator TALMADGE. Are there other instances of matters that might have been withheld from Mr. Ehrlichman?

Mr. STRACHAN. Yes, sir.

Senator TALMADGE. What, for instance?

Mr. STRACHAN. Well, I can only remember one or two occasions when Mr. Ehrlichman would have access to any of the polling information that Mr. Haldeman conducted through me.

Senator TALMADGE. Any others?

Mr. STRACHAN. Nothing that comes to mind immediately.

Senator TALMADGE. As you are aware, there is a direct conflict in some of the testimony between you and Mr. Magruder. Can you tell us why we ought to believe you in preference to Mr. Magruder?

Mr. STRACHAN. Yes, sir. I believe you should assess a witness' testimony in light of his history for telling the truth and in light of the individual's motives to tell the truth. Mr. Magruder has told various versions of the Watergate story, many of them believed, to the Federal Bureau of Investigation, to three grand juries, to the original Watergate trial jury, to the original prosecutors, to the attorneys and other officials of the Committee To Re-Elect the President. Apparently, the story he told them was false all along. Yet, they believed him.

As to an individual's motive to tell the truth, Mr. Magruder was faced with, in his mind, at least 12 counts of perjury and whatever other crimes he might be charged with. His desire to deliver an individual on the White House staff to the prosecutors was quite high, and I believe he selected me because I had refused to corroborate testimony he asked me to corroborate.

Senator TALMADGE. Did he ever lie to you when you were at the White House together?

Mr. STRACHAN. Yes, sir, he did.

Senator TALMADGE. In what respect?

Mr. STRACHAN. He would frequently inform me that a matter had been decided by someone when it had not in fact been decided by that individual, and we had occasional arguments over that misinformation.

Senator TALMADGE. Now, you said Mr. Haldeman let you know in no uncertain terms if you ever did anything incorrectly. Would you please explain what you meant by that by some illustration?

Mr. STRACHAN. Well, one is an illustration that will forever stick in my mind. After the Republican National Convention, a decision had been made to send certificates to all those who had attended. That was quite a number of people and I had been working with several members of the White House staff trying to get the various certificates for the various levels of people out, and the gifts and so forth. Mr. Halde-

man learned somehow that the project was not complete and one morning, about 4 a.m., he called me from Air Force One and told me very clearly that I had not performed and that the project should be handled immediately. I had been on the phone late that night and I thought it was a bad dream, so I called the signal operator back and I said, did I just get a call from Mr. Haldeman?

And he said yes, and it was over the radio, and I can tell you what he said in the morning.

Senator TALMADGE. Did you ever consider leaving? [Laughter.]

Mr. STRACHAN. Yes, sir; I did consider leaving, but when I was hired for the job, he hired me through the election and I gave him my commitment that I would stay through the election.

Senator TALMADGE. Thank you very much, Mr. Strachan. I think you have made a forthright and candid witness.

The committee will recess at this point. There is a vote on the Senate floor and I think Senator Weicker has a few more questions to ask you, Mr. Strachan.

[Recess.]

Senator INOUE [presiding]. The hearing will come to order.

The Chair recognizes Senator Weicker.

Senator WEICKER. Mr. Strachan, just a very few brief questions.

Did Mr. Haldeman meet with you at any time in preparation for his appearance before the staff of this committee?

Mr. STRACHAN. No, sir; he did not.

Senator WEICKER. Now, in the course of his testimony or before that, in the course of his appearing before the committee, he made certain statements which I would like you just to touch upon very briefly and indicate as to what your knowledge of these matters is.

Specifically, in the area of leaks and the Plumbers in the Pentagon Papers, he indicates only the most general, general knowledge of what was going on. This seems to be rather at odds with the testimony that you gave before the staff of the committee.

Could you describe your understanding as to what Mr. Haldeman's role was in the leaks operation relative to the Pentagon Papers?

Mr. STRACHAN. I know very little about the leaks operation as it related to the Pentagon Papers. My knowledge of the program to stop leaks we discussed in executive session, and that was a program established after the President held a Cabinet meeting and I worked with Mr. Dean and Mr. Malek on that project.

Senator WEICKER. What was Mr. Haldeman's role?

Mr. STRACHAN. Mr. Haldeman was the recipient, of course, of the memorandums from me, Mr. Dean and Mr. Malek regarding the leaks project.

Senator WEICKER. Was—I believe the term used initially by you in the interview was that he was the “Lord High Executioner,” given the mission of finding the leaks, is that correct?

Mr. STRACHAN. Yes; that was the statement that he used in the original meeting in his office with Mr. Malek, Mr. Dean, Mr. Higby, Mr. Colson, and myself.

Senator WEICKER. So that, in fact, that he did play more than just a general role in this matter, is that correct?

Mr. STRACHAN. Yes; that is correct.

Senator WEICKER. All right.

In the course of that testimony it was indicated that he had no—he did not know whether or not you, Gordon Strachan, subsequent to June 16, destroyed any materials pertaining to the investigation of the case, et cetera.

Is that true or not?

Mr. STRACHAN. Well, he told me to make sure the files were clean. I went and destroyed them. I told John Dean, and I reminded him on July 1.

Senator WEICKER. In other words, you did tell him that you had destroyed these materials, is that correct, that took place on Air Force One?

Mr. STRACHAN. That is correct.

Senator WEICKER. Now, then, in conclusion, I have one question which I consider to be extremely important because the element of fairness is always raised as to this committee, as to the fairness of the questioning, the fairness exhibited by the members of the committee.

Now, what I would like to do is apply that standard to you insofar as your ability to retrieve information, make notes, et cetera, relative to the preparation of your appearance before this committee. I wonder if you would describe to the committee the conditions which exist insofar as you are concerned when you want to go back and take a look at your records and retrieve any material that you might have from the Executive Office Building?

Mr. STRACHAN. Well, after the campaign, I took all files which I considered Presidential papers because they included memorandums from the President to Mr. Haldeman, memorandums from Mr. Haldeman to me, from me to Mr. Haldeman, to room 522 in the Executive Office Building, and locked them in at least six safes. When it became necessary for me to recall specific dates and meetings, I began going back to the Executive Office Building, I was allowed access, but I was not permitted either to copy any document by Xerox or to take notes about any particular item in there, or to take notes in with me for matters that I wanted to discover.

Senator WEICKER. Is there somebody present in the room with you?

Mr. STRACHAN. Yes, sir, a Secret Service agent.

Senator WEICKER. All right. Now, let's assume the fact that you want to find some detail or some particular piece of information. You go into the room. You retrieve the document; what can you do at that point?

Mr. STRACHAN. I can read the document and put it back in the safe.

Senator WEICKER. And what do you do, run out of the room and try to jot down the notes somewhere outside of the room? How does this work?

Mr. STRACHAN. No. I would not go outside the room to try to jot that down. I would try to remember as many things as I possibly could in the space of 2 or 3 hours. I would leave the room with the Secret Service agent, lock the filing cabinets, lock the room, and usually go over to my lawyer's office and try to write up my best recollection of the information that I had read.

Senator WEICKER. In other words, you are not allowed to bring any paper, pencil, in the room with you or make any notations while you are trying to pull together the facts prior to your appearance before this committee.

Mr. STRACHAN. That is correct.

Senator WEICKER. And this has been the situation, and it continues to be the situation?

Mr. STRACHAN. That is correct.

Senator WEICKER. Was it the same situation for your appearance before the grand jury?

Mr. STRACHAN. I don't believe I even went into the room to reconstruct my recollection before I went to the grand jury. It has been the situation ever since it became important that I be able to reconstruct facts accurately.

Senator WEICKER. Do you consider this to be a very fair set of conditions?

Mr. STRACHAN. I would prefer an alternative system.

Senator WEICKER. I have no further questions, Mr. Chairman, except to comment that for a man who is as deeply involved in these important matters as Mr. Strachan, I would say that any unfairness that has been exhibited to him certainly has not come from this committee, and I consider the conditions under which you operate in the preparation of your case for presentation to the American people to be grossly unfair.

Senator INOUE. Mr. Strachan, I have two questions. You, in your testimony, suggested that several of the aides to the President had the capability of electronically taping conversations in their offices. You have indicated that several meetings were held in Mr. Haldeman's office, at which time political intelligence-gathering were being discussed. Do you know if these discussions were recorded on tape?

Mr. STRACHAN. No, I do not know that, and I do not think that Mr. Haldeman had tape capability in his office. I do not know this for a fact, but I do not think he did.

Senator INOUE. Mr. John Dean, in his opening statement to this committee, said the following:

It was during this period of time, which I believe was mid-February, Magruder had a conversation with Mr. O'Brien in which he told O'Brien that he had received his final authorization for Liddy's activities from Gordon Strachan and that Strachan had reported that Haldeman had cleared the matter with the President. I reported this to Haldeman who expressed concern over Magruder's statement.

Do you wish to comment, sir?

Mr. STRACHAN. Well, I think the timing of that version of the facts by Mr. Magruder is interesting. I think shortly thereafter in Mr. Dean's testimony he indicated that the interest in getting Mr. Magruder a Government job increased something like tenfold, and it is my opinion that that version of the facts was presented by Mr. Magruder to Mr. O'Brien for that specific purpose.

Senator INOUE. In your conversations with Mr. Haldeman, did he ever indicate to you that he had received such a report from Mr. Dean?

Mr. STRACHAN. No, he did not. He subsequently told me that Mr. Magruder had told him a slightly different version of that story, and he dismissed it at the time; well, that is just Mr. Magruder trying to get some attention.

Senator INOUE. For the record, did you at any time give final authorization for Mr. Liddy's activities?

Mr. STRACHAN. No, sir, I did not.

Senator INOUE. Were you aware of Mr. Liddy's activities at that time in mid-February?

Mr. STRACHAN. No, sir, I was not.

Senator INOUE. It is your view that Mr. Magruder was less than honest in this?

Mr. STRACHAN. Yes, that is my firm opinion.

Senator INOUE. Any further questions?

Mr. DASH. I have no further questions.

Senator INOUE. Mr. Strachan, in behalf of the committee, I thank you very much for your cooperation and your appearance here.

This committee will stand in recess until 10 tomorrow morning.

[Whereupon, at 5:35 p.m., the hearing was recessed, to reconvene at 10 a.m., Tuesday, July 24, 1973.]



**TUESDAY, JULY 24, 1973**

**U.S. SENATE,  
SELECT COMMITTEE ON  
PRESIDENTIAL CAMPAIGN ACTIVITIES,  
*Washington, D.C.***

The Select Committee met, pursuant to recess, at 10:05 a.m. in room 318, Russell Senate Office Building, Senator Sam J. Ervin, Jr. (chairman), presiding.

Present: Senators Ervin, Talmadge, Inouye, Montoya, Baker, Gurney, and Weicker.

Also present: Samuel Dash, chief counsel and staff director; Fred D. Thompson, minority counsel; Rufus L. Edmisten, deputy chief counsel; Arthur S. Miller, chief consultant; Jed Johnson, consultant; David M. Dorsen, James Hamilton, and Terry F. Lenzner, assistant chief counsels; R. Phillip Haire, Marc Lackritz, William T. Mayton, Ronald D. Rotunda, and Barry Schochet, assistant majority counsels; Eugene Boyce, hearings record counsel; Donald G. Sanders, deputy minority counsel; Howard S. Liebengood, H. William Shure, and Robert Silverstein, assistant minority counsels; Pauline O. Dement, research assistant; Eiler Ravnholt, office of Senator Inouye; Robert Baca, office of Senator Montoya; Ron McMahan, assistant to Senator Baker; A. Searle Field, assistant to Senator Weicker; John Walz, publications clerk.

Senator ERVIN. The committee will come to order.

Counsel will call the first witness.

Mr. DASH. Will Mr. John Ehrlichman take the witness table?

Senator ERVIN. Will you stand up please, sir? Raise your right hand. Do you swear the evidence that you shall give to the Senate Select Committee on Presidential Campaign Activities shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. EHRLICHMAN. I do.

Senator ERVIN. Suppose you state your name and address for the record.

**TESTIMONY OF JOHN EHRLICHMAN, ACCOMPANIED BY JOHN J. WILSON AND FRANK H. STRICKLER, COUNSEL**

Mr. EHRLICHMAN. My name is John Ehrlichman. I live on Chesapeake Drive in Great Falls, Va.

Senator ERVIN. I observe that you are accompanied by counsel, and I would request counsel to identify themselves for the purposes of the record.

Mr. WILSON. Mr. Chairman, my name is John J. Wilson. I am accompanied by my younger partner, Mr. Frank H. Strickler, S-t-r-i-c-k-l-e-r. We both represent Mr. Ehrlichman.

Senator ERVIN. Thank you very much.



Mr. DASH. Mr. Ehrlichman, do you have a statement which you would like to read to the committee?

Mr. WILSON. Mr. Chairman, may I make a one-sentence preliminary, sir?

Senator ERVIN. Yes, sir.

Mr. WILSON. I just wanted to say that Mr. Ehrlichman is here pursuant to a subpoena which I advised him to seek in order that we may protect ourselves with respect to things which may happen later on.

Senator ERVIN. Yes.

Mr. WILSON. Thank you, sir.

Senator ERVIN. The Chair will find as a fact that Mr. Ehrlichman is here pursuant to a subpoena issued by the committee.

Mr. DASH. Mr. Ehrlichman, do you have a statement which you wish to read to the committee?

Mr. EHRLICHMAN. Yes, sir, I do.

Mr. DASH. Will you read it, please, sir?

Mr. EHRLICHMAN. Mr. Chairman and members of the committee:

#### INTRODUCTION

At the time of my resignation, I assured the President that I intended to spend such time and personal resources as I had in the statement of the truth of these matters now before this committee. As I will describe, I have willingly and fully testified before several other official inquiries.

Because I sincerely do not believe I am guilty of any wrongdoing, I have not invoked the fifth amendment, nor have I attempted to negotiate "immunity" for myself from anyone.

A member of this committee, Senator Inouye, suggested by a question he asked a witness here, I had invoked executive privilege in some forum and thereby had sought to avoid answering questions. Of course, only the President can invoke that privilege. On the occasion referred to, the President had established certain guidelines which are no longer in effect. Thus, I will try to fully answer all questions put to me by the committee within the new executive privilege guidelines.

I welcome this opportunity to lay out the facts, and publicly set the record straight on a number of questions. Some of these questions have been legitimately raised. Others are created by leaks to the press, falsehoods, and misunderstandings.

I am here to refute every charge of illegal conduct on my part which has been made during the course of these hearings, including material leaked to the news media. What I say here will not be new, but it may be different from what you have been reading in the papers.

I have testified fully before three grand juries: One in this city, one in New York, and one in Los Angeles. I have testified before other committees of the House and Senate. I have had an off-the-record, nonpublic, meeting with the staff of this committee, and I have been interviewed by agents of the Federal Bureau of Investigation on a number of occasions. In addition, on request of the staff of this committee, I have made available pertinent records in my possession, including transcripts of telephone conversations and meetings which I had with various people in the course of an inquiry conducted for

the President. What I say here will not be different from my testimony and evidence in these other forums.

Finally, in addition, when requested by the committee staff, I supplied my complete financial records and tax returns from January 1, 1969. I did this despite my attorney's advice that the scope and authority of this committee is limited to a study of the extent to which illegal, improper, or unethical activities were engaged in by persons "in the Presidential election of 1972, or any campaign, canvass, or other activity related to it."

#### SETTING THE RECORD STRAIGHT

I look forward to answering your questions concerning a broad range of subjects, including the following:

Did John Dean investigate White House involvement in the Watergate break-in? What did he find? Is exhibit 39's [committee exhibit No. 34-43] description of those findings accurate?

What was the so-called special unit concerned with the leaks and theft of defense and foreign affairs documents bearing "secret" and "top secret" classifications, why and how and when the unit was formed, what I know about the break-in attempt in California and its bearing on the Watergate, if any;

Whether there is any real connection between the California (Fielding) break-in and the involvement of any White House employee in the Watergate coverup; in that connection, whether the California break-in ever really could have been "covered up" in view of the authorities' actual knowledge or, alternatively, whether any "coverup" was necessary in view of the national security aspects of the matter, as legally determined by the President;

Whether or not I knew the purposes to which the Kalmbach money was to be put, why and when I agreed to his fundraising, and what assurances I gave Mr. Kalmbach in July 1972.

The story—or should I say stories—of the meeting to discuss Howard Hunt and the contents of Hunt's safe and John Dean's efforts to plant one of those stories with me about Hunt leaving the country;

What I found out about the destruction of some of those documents from Hunt's safe and, more important, when I found out;

The President's instructions to me regarding Executive clemency and how I carried them out;

The effort which I made to get a full public disclosure of the facts of this whole matter last summer and fall, 1972.

The reasons for the meeting with the CIA Director in June 1972, and what instructions were really given to the FBI as a result;

Why I requested the Assistant Attorney General, Henry Petersen, to permit Secretary Stans to give testimony by deposition instead of at the grand jury;

What I did when the President assigned the White House aspects of the Watergate problem to me on March 30 of this year, what various individuals told me in an interview why the President did not immediately fire John Dean, and why I taped some of the interviews and telephone conversations I have turned over to this committee and the grand jury;

When I first learned of the Liddy "intelligence" meetings held early in 1972 and the other acts leading to the break-ins at Watergate;

When I first learned of the actions comprising the concealment of the truth about the break-ins;

My working relationship to Mr. Dean, his actual duties and mine, and his access to the President;

What really happened and was said at La Costa in February and why the President began meeting with Mr. Dean after that;

The President's continued effort to obtain and publish a full, factual account of Watergate in its several aspects and why he never got it.

It has been repeatedly said that this is not a trial; that the committee will recommend legislation, not assess guilt or innocence. At the same time, the soundness and integrity of the President, his staff, and many close associates have been impugned and directly put in issue here. Many important questions about the White House, the Presidency, and its staff system have also been asked here, but not answered. I hope and believe I can contribute a few of those answers and also perhaps some measure of perspective.

#### DEMONSTRATIONS AND THE CLIMATE

Mr. Dean began his statement with a somewhat superficial but gallery-pleasing repetition of the old story about fear and paranoia in the Nixon White House. Why, Mr. Dean wondered, was there all that overplayed concern about hippies coming to Washington to march peacefully down Pennsylvania Avenue? Mr. Dean's explanation is simply that we were all suffering from some advanced forms of neurosis, and nothing else—some strange White House madness. He suggests he was the only sane one in the bunch.

Since he began his statement there, let me take up that subject briefly. I submit that on this general subject there are some realities of governmental life to be weighed in your deliberations.

From its first days the Nixon administration sought a stable peace abroad and a return of our POW's from Southeast Asia; to get these results required the President to undertake foreign policy moves and initiatives which were completely interrelated and extremely delicate. In pursuit of this result we necessarily gave earnest attention to the staffing of critical Government positions with people loyal to the President's objectives. And the problems of leaks, demonstrations, bombings, and terrorism, public opinion, and congressional support were understandably on the President's mind.

Today the Presidency is the only place in the Nation where all conflicting considerations of domestic and international politics, economics and society merge; it is there that street violence and civil rights and relations with Russia and their effect on China and the Cambodian military situation and 1,000 other factors and events are brought together on the surface of one desk and must be resolved.

Some of these events in 1969 and 1970 included hundreds of bombings of public buildings in this country, a highly organized attempt to shut down the Federal Government, which you will all remember, intensive harrassment of political candidates and violent street demonstrations which endangered life and property.

Taken as isolated incidents these events were serious. Taken as a part of an apparent campaign to force upon the President a foreign policy favorable to the North Vietnamese and their allies, these demonstrations were more than just a garden variety exercise of the first amendment.

Just as, and because, they affected the President's ability to conduct foreign policy, they required the President's attention and concern. Had he and his staff been ignorant of the significance of such a campaign, or merely indifferent, they, that is the President and his staff, would have been subject to the proper criticism of all citizens interested in securing a stable peace in Southeast Asia and the return of our POW's.

But the President did understand these events to be important in the overall foreign policy picture and they received balanced attention along with other events and factors.

In 1969, when he first came into office, the President took this Nation into a new international era in which the stakes were extremely high. From close observation I can testify that the President is not paranoid, weird, psychotic on the subject of demonstrators or hypersensitive to criticism. He is an able, tough international politician, practical, complex, able to integrate many diverse elements and to see the interrelationships of minute and apparently disassociated particles of information and events.

#### WHY DIDN'T EVERYONE KNOW ALL ABOUT WATERGATE?

It has been my limited experience that, in the trial of a long lawsuit with a great number of witnesses, it becomes hard for the lawyers, witnesses, judge, and jury to remember that anything else ever happened in the community back at the time of the disputed event except that event itself. The collapse of a tunnel, collision of the trains, or breach of the contract in the case which is being tried in court eventually appears to have occupied the very center of the stage at the time. I sense some of that shrinkage of perspective in some of the questions here, and in some of the comments of the network people on the television.

Here is what appears to be this great big thing, a burglary, a "cover-up," "horrors" all going on, and witness after witness goes over the exquisite details of a few meetings, phone calls, memos, and conversations, day after day here. One begins to think, surely all of this could not possibly have passed unseen by anyone of even average awareness. How, then, could people on the White House staff have failed to know all of these so-obvious and often repeated and significant details, and failed to blow the whistle on the wrongdoers long before the 9th month?

John Dean said one thing in his testimony—page 2929—falsely than all the other falsehoods there, when he said:

[The Watergate] "was probably the major thing that was occurring at this point in time," meaning, in the context of Senator Baker's question, in the White House between June 17 and September 15, 1972.

To demonstrate the absurdity of that important misstatement I need only briefly develop a few facts which are perhaps a broader view of the months following June 17, 1972, than Mr. Dean is willing to take for his purposes. To this end, I would like briefly to describe the White

House, my experience there, and say a few things about the Presidency in order to make more understandable some of the questions before you, including access to the President, Mr. Dean's role, and who reported to whom. And you need a clearer picture than you've had so far of what was really going on at the White House in June 1972 and the following months.

I do not suggest that we were all just too busy to have noticed. We did notice and we kept informed through John Dean and other sources on the assumption that he was giving us complete and accurate information.

But it is important to know that, in today's White House, there must be, and there is, a heavy delegation of responsibility and duties.

This narrative goes to the question: How could all of this have been avoided?

And it goes to the important point that a chain of delegation is only as strong as its weakest link.

#### WHITE HOUSE COUNSEL 1969-70

I came to the White House as counsel to the President from a private, civil law practice in Seattle, Wash. I took a substantial financial cut to come into the Government. I came because the President asked me to, and because I became convinced that there was an opportunity to really accomplish things for the country by assisting him.

My wife and family made the greatest sacrifice, of course. Their lives were totally disrupted in moving here. I worked long hours and every day, and they were asked to make new lives around that schedule. For us the only real compensation for all of this was a great sense of accomplishment as we saw the President's ideas begin to take hold and his goals begin to be achieved.

In my view, all this talk of White House staff power and status is meaningless currency which cannot possibly pay for one's lost time with his family and the lost freedom to live one's own life.

Because I once was counsel to the President I know what the President has delegated to the one who holds that post, specifically, in this case, John Dean.

Aside from being the President's liaison to the departments and agencies concerned with legal matters, the counsel to the President is supposed to be the "conscience of the White House." It is his job to keep a sharp eye out for wrongdoing, such as potential conflicts of interest, to insure that Presidential appointees cannot put personal interest ahead of the interest of the public in governmental matters. He reviews the FBI checks of all potential Presidential appointees for such problems. He keeps abreast of legal and other questions which are before the executive branch, to be able to answer questions when asked by the President or his staff; he reviews documents before they go to the President for signing. In addition, he is a conduit for all kinds of miscellaneous information relating to Federal law and regulatory agencies, legal technicalities, and legislation. It is his job to keep the White House informed of a whole raft of subjects within these general areas. And, perhaps most important, he must be a self-starter. He must take the initiative because in the Nixon White House there is no one else who is going to have the time to supervise, make

assignments, decide what should be looked into. Everyone else is fully occupied with his own area of responsibility.

Thus, the counsel is a vital link in a chain of delegation. In my view, one in that position must bring to the job sufficient training and experience to know what to do and when to do it.

The counsel also has and has had political duties. The President is the Nation's Chief Executive. But he is also, by longstanding tradition, his political party's leader. Any President has a political role to play, whether he is going to run for reelection or not. But if he is a candidate, then he is both an Executive and a practicing politician. Every such politician wants information. And the President, in his politician role, is no different from the others. He needs and wants information about issues, supporters, opponents and every other political subject known to man.

For the year 1969 to 1970, when I left the post of counsel, I attempted to gather some purely political information for the President, as I was expected to do. Out of real concern for the proprieties, I attempted to use only conventional, nongovernmental sources of information. As one might hire political aides in a political campaign, Tony Ulasewicz was hired to do this chore of information gathering. He was paid from existing Nixon political money, by check, under an appropriate employer's tax number. Among other assignments, he scouted the potential opposition for vulnerability. So far as I am aware, during my tenure as counsel, Mr. Ulasewicz conducted his assignments legally and properly in all respects.

#### THE OFFICE OF THE PRESIDENT

To meaningfully answer the question, "What did the President know?" one should have a clearer picture of what the President really does.

One witness here suggested that we define the Presidency in constitutional terms. But the true, up-to-date picture will not alone be found in the pages of the Constitution, nor even in the modern textbooks on civics and Government. Obviously, he is the Chief Executive, responsible for the administration and operation of the departments and agencies and bureaus and offices of the executive branch, with their millions of employees and billions of dollars of spending.

And, of course, his duties include the conduct of the Nation's foreign policy in a troubled world. He is Commander in Chief of the Armed Forces, frequently works with the Joint Chiefs of Staff on a personal basis, sits with the National Security Council and the military intelligence gatherers for hours at a time, makes the decisions on defense strategy and is responsible for its long-range planning.

He must also submit the Nation's multibillion dollar budget to the Congress every January, covering every activity of the Federal Government in great detail. That is sheer month-by-month drudgery for the President involving decisions that really cannot be delegated to anyone else, and work that is never really done.

All of this is known to most citizens and surely to the distinguished Senators of this committee.

I am sure you also realize the Presidency has been dramatically changed in recent years by the increasing complexity of the Nation's

foreign and domestic problems. A domestic issue which simply could be considered and resolved by one agency head in 1935 or 1940 without involving the White House today probably involves the conflicting interests of two or three major Departments of the Federal Government and frequently results in disputes which only the White House can resolve. For example, five or six departments today are directly concerned with important aspects of the subject of health. Consumers' interests, narcotics and drug abuse, Indian affairs and the creation of more parks, for instance, all involve two or more departments. These subjects are more complex because the Nation, the society, is. And Government is larger and more complex. There are 1,400 categorical grant programs administered by the executive branch today, compared to a third that many 20 years ago. Our concept of Government's role has changed, and, with it, the Presidency has changed qualitatively and in terms of the workload.

As this dimension and complexity has compounded, the demands and claims for the President's personal time and attention and his personal decision has steadily escalated. Jurisdictional conflicts between Cabinet officers, departments, levels of Government all now find their way to the White House by some law of governmental gravity. I find in conversation that some longtime Washingtonians who have been here many years still do not have a true, realistic understanding of the quality and quantity of the demands upon a President's time, nor of the fact that they continue to escalate with every day that passes.

#### THE WHITE HOUSE STAFF

And so the President must have help; he has a staff and he must have some system for delegating and for determining which of all these claims deserve and require his time on a priority basis.

For example, there has been some surprise expressed here that Mr. Dean, his counsel, did not have easy entry to the President's office, to drop in to discuss the counsel's concerns. The fact is that, with a senior staff of about 20, and a total staff of over 400, and given the real demands on his time, the President necessarily must operate on the basis that his staff come to him when called only, and all others did business on paper. This last is a very important point, however. Men and women, even those considerably junior to Mr. Dean on the staff, frequently availed themselves of access to the President's evening reading via the typewritten page; important papers invariably got a full and quick response. Mr. Haldeman, Dr. Kissinger, and the rest of us seldom, if ever, saw the President unless he called for us. On the other hand, my staff and I had quick and easy access to the President's attention whenever there was a need, simply by sending in a memorandum or a message asking for a decision, or an appointment, or calling his attention to facts or events.

For example, Mr. Dean admits he informed the President, even hourly, of some occurrences in this way. It was an open channel, and he knows it.

The President necessarily delegates responsibility to his staff. I have described, for example, the delegation to the counsel. Some problems must be handled only at the White House, but need not be handled by the President himself, and in my view, these subjects are properly

delegated to White House people, to act in the President's place. It would be impossible for the President, or any one person in his behalf, to keep informed of everything being done by the staff, even in areas of major current interest or concern.

Before I leave this matter of access to the President, I should add also that, in my experience, any member of the White House staff having vital or sensitive information for the President alone could and would be seen by the President if he requested an opportunity. I know of a number of instances in which such a need was met during my time at the White House.

#### ASSISTANT TO THE PRESIDENT

In early 1970 my job had changed. I left the counsel's office and became one of the several assistants to the President. My assignment was domestic affairs and those of us working in that area were given the job of bringing to the President those domestic Presidential decisions which required his attention, along with as much information, advice, and opinion as we could gather from all sources, to enable him to consider an issue broadly.

We were the liaison between the President and the departments and agencies dealing with the entire range of domestic problems as well. The President follows the news of the day closely, and constantly communicates with these departments and agencies concerning the problems they currently face. This is done usually through the responsible White House staff person whose assignment includes the subject matter or the department or agency involved.

The President has sent between 20 and 50 domestic legislative packages to the Congress in each year of his term. They ranged very broadly in subject matter. This legislation was usually the product of many meetings, countless drafts and redrafts and the active participation of the President, his staff, the Office of Management and Budget, and the departments having jurisdiction of the subject matter.

As you know, the Federal budget is also an instrument of policy. Next year's budget begins in preparation the day after this year's goes to the Congress. All through the spring and summer months, the budget decisions are framed and moved to the President for action. In September, 1972, for example, the President formulated his budget strategy for the months January to March 1973. In the fall the final "marks" are given to the departments and then the President considers specific appeals from the Cabinet members or agency heads who feel they have been shortchanged. Throughout this process the assistants for national security affairs and domestic affairs must work closely with the President and the Director of the Budget on the minutest details.

And then there is the Congress. The legislative packages, the budget, and countless other decisions which ultimately rest with the Congress are affected by the devotion of time and attention which the President can give to their explanation and his advocacy with individual members and groups of members. A President could, I am sure, devote every waking moment to this work and still not satisfy every demand or criticism.



I have not even mentioned the President's necessary role in the area of foreign and domestic economic problems: problems of inflation, balance of payments, the relative values of currencies, import and export restrictions, the level of Federal spending, and unemployment. All through my log and calendar, you will see meeting after meeting devoted to the problem of rising food prices, for instance.

He must work closely with his Council of Economic Advisers, the four departments principally involved with these problems and with the key committees of the Congress on an increasingly frequent basis.

As I worked within this setting, of course, my time simply was not my own. Issues were forced upon us by their progress in the Congress, by budget deadlines, by the expiration dates of existing laws or continuing resolutions. And my subject for the day was frequently determined by something assigned by the President when I got to work that day.

As liaison to the domestic operating departments and agencies I frequently carried to them the President's expressions of criticism and suggestions for change. To the uninformed this undoubtedly would appear to create tensions between a Cabinet secretary and me. But, actually, I think I maintained a good and frequent contact and good relations with our domestic secretaries, including the several Attorneys General, over my 3 years in this position. I confess I did not always bring them good news, but then that was not my job. They and I shared a mutual objective, I think, and that was to do all we could to help the President accomplish his stated goals.

As many here know, not everyone in the executive branch in the first term shared these goals. There were a number of holdovers in the executive branch who actively opposed the President's policies, especially his foreign policy, but also in the area of domestic affairs I can assure you.

These people conducted a kind of internal guerrilla warfare against the President during the first term, trying to frustrate his goals by unauthorized leaks of part of the facts of a story, or of military and other secrets, or by just plain falsehood. The object was to create hostility in the Congress and abroad and to affect public opinion. Henry Kissinger, Secretary Rogers, and others were seriously concerned that this kind of internal sabotage of administration policy could actually ruin our chances to negotiate a strategic arms limitation treaty and terminate the Vietnam situation on a stable basis, for example. A similar threat to a good result in Vietnam was posed by the combination of street demonstrations, terrorism, violence and their effect on public and congressional support for the President's policy.

#### THE PRESIDENT AND POLITICS

In his 1960 campaign Mr. Nixon was involved in every minute detail. In 1968, when he invited me to manage the campaign, I agreed to manage the campaign tour only after securing his promise that he would completely delegate detailed control of the advance work, logistics, and schedule. And his participation in these details was minimal in 1968.

In 1972, with the foreign situation as it was, the President decided quite early that he simply could not and would not involve himself

in the day-to-day details of the Presidential primaries, the convention, and the campaign. He made a very deliberate effort to detach himself from the day-to-day strategic and tactical problems. And so the regular work of the White House relating to Government and the Nation's problems continued unabated. If anything, we on the domestic side were busier with the President on governmental business than in other years.

In 1972, the President had to delegate most of his political role and it went to people not otherwise burdened with governmental duties. As a result, I personally saw very little of the campaign activity during the spring and early summer of 1972. The President asked me to be sure that the campaign organization and the national committee said or did nothing inconsistent with administration policy. And so I had a few meetings with the CRP people to explain existing domestic policy, that is, on campaign issues. Dr. Edward Harper of our staff, established liaison on a regular basis to review pamphlets, position papers and research, and we worked with the White House writers on a series of substantive statements and speeches which the President delivered during the campaign on subjects like welfare, amnesty, education, and busing, et cetera.

I began to spend more time with Ron Ziegler, Press Secretary at the White House, in the late spring of 1972, helping him to understand the campaign issues, reviewing the research with him, et cetera. It became more important than ever for me to keep ahead of developments and in this connection I asked Mr. Dean to inform me as early as possible of significant changes, or new events in the Watergate case, so Ron Ziegler and I could deal with new issues which would be arising in the press. It was for this purpose that I talked to Dean about Watergate in most instances.

In addition, the President formed an advisory group which met twice a week to look at the campaign in overview, at long range, and to discuss any needed changes. Attending these Monday and Thursday morning meetings were Clark MacGregor, John Mitchell, Bob Halde- man, Bryce Harlow, Charles Colson, and I. Presumably, I was the substantive issue man in the group. Since Watergate was a campaign issue it was discussed in these meetings; it was never a major subject of discussion, however, and if anyone in the group knew more than the others he didn't share his secrets there.

I also represented the President during the platform committee deliberations at the Republican Convention. Dr. Harper and I invested many, many hours in the platform issues in the weeks prior to the convention and our labors only ceased when the convention voted its adoption with a few acceptable amendments.

Thereafter I traveled with the President on his campaign trips to assist in handling last-minute issue questions in speeches, et cetera.

"NOTHING MORE IMPORTANT \* \* \*"

All of this was superimposed upon active involvement in legislative, budget and operational domestic problems, through the summer and early fall of 1972.

During the summer and fall of 1972 there were tough legislative issues which took the President's time and ours in great quantities. Bus-

ing, water quality, phase II of the economic program, and welfare reform are, I know, subjects familiar to you all. They were critical issues to the Senate as they were to the President.

Federal Government overspending was also a hot issue and we were engaged in documenting a catalog of bad Federal spending programs to justify the congressional repeal or reduction of a great many programs that spent great sums of Federal money with little or no benefit to the public. During those months, along with a great many others, we were trying to understand Senator McGovern's \$1,000 a year welfare plan and figure out its true cost, and we were researching and analyzing about 20 other major campaign issues ranging from tax reform to the death penalty, these issues were being farmed between the two candidates as the campaign went on.

We were checking into the propriety of grain sales which had been challenged.

The President negotiated with the new Japanese Prime Minister for 2 days in Hawaii in September. I made that trip with him and met for 2 days.

Other pressing issues the President and the White House staff were at work on, the Presidential campaign aside, included air highjacking, a ceiling on Federal spending, post office problems, unemployment, surface transportation, Government property disposal, the revision of the system for classification of secret documents, environmental problems: air, water, pesticides, grazing, et cetera, flood damage rehabilitation, and countless other issues.

As my log will show I spent considerable time every week with the press, attempting to explain and outline for the media the President's domestic goals and programs.

From June to September 1972, my staff and I put in long days, the convention platform having imposed additional burdens on some of us. After the convention, the speeches, position papers and political statements and releases kept the pressure on us. It was a very busy time.

John Dean, on the other hand, never found things so quiet and he planned the most expensive honeymoon in the history of the White House staff right along this period.

#### CONCLUSION

I do not write many memorandums. Most of my staff communication in the White House took place in person or on the telephone. And my work pattern was such that I ordinarily took direct phone calls only from those with whom I shared direct phone lines: The President, George Shultz, Ken Cole, Bob Haldeman, and Caspar Weinberger.

The committee has had the log of how I spent my office time over the years. As it shows, the vast percentage of my time was devoted to domestic policy issues. Great blocks of time were consumed by a single problem or issue. Literally half of November and half of December 1972, were devoted to the President's reorganization plan of the executive branch and many personnel changes. Much of the impounding and budget cut and veto strategy unveiled by the President in January 1973, was also developed in those 2 months, as a

result of decisions made by the President in a series of long sessions in September, October, and November 1972.

I have attempted in this statement to show you the personal context in which I worked in the White House during the last 3 years. I had heavy duties in a rather specific area of concern. I was not a generalist, once I ceased being counsel to the President in 1970.

Nor was I anyone's siamese twin during these years. Listening to the star witness "hyphenate" me for 5 days, I began to know a little of how a caboose feels. Mr. Dean repeatedly and facetiously would testify, and he would say "and so I informed Haldeman and Ehrlichman of so-and-so" as if it were possible to do with one phone call or drop by. It could not really happen and in virtually every case to which he referred in testimony it did not happen.

And how much time did I actually spend with Mr. Dean learning about the break-in or keeping abreast of developments to assist Ron Ziegler on the issues, or with Mr. Dean on any other subject for that matter in the weeks following Watergate?

We invariably met either in my office, or more rarely in Mr. Haldeman's (with the exception of just three or four meetings) most of which were held out of town.

The logs for these two offices, Mr. Haldeman and mine, demonstrate clearly the frequency of my meetings with Mr. Dean.

Remember: Dean testified that keeping Watergate covered up was a tremendous drain of my time and told of all the conferences and meetings I was having with him about it. Let's be clear: I did not cover up anything to do with Watergate. Nor were Mr. Dean and I keeping steady company during all those weeks.

I have compiled our meetings in 2-week periods from June 17 through the election, the "critical period," presumably, and here on page 27 of the statement, Mr. Chairman, you will see that compilation. In the first 2 weeks, June 17 to July 1, which was the period when we were trying to learn about this new campaign issue, and whether the White House, the CIA or anyone else were connected with it, I had nine meetings with Mr. Dean.

In the second 2 weeks I had only one meeting. In the third 2 weeks, three. In the fourth 2 weeks, two. In the fifth 2 weeks, one. In the sixth 2 weeks, two. In the seventh 2 weeks, September 13 to 26, none. In the eighth 2 weeks, none. In the ninth 2 weeks, again none, and finally, from October 25 to election day, three, for a total of 22.

It should be noted that this is the total number of our face-to-face contacts on all subjects, not just Watergate. These were all contacts, including group meetings.

Of the total 22 contacts, two related to Presidential papers and testamentary planning, one related to convention planning, one related to grain sales, two on general campaign planning, one regarding the President's financial statement to be released, one regarding settlement of the Common Cause lawsuit. Of the remainder not all were devoted to talk about aspects of Watergate, I am certain.

Now, again, on this Siamese twin business, Mr. Haldeman and I had vastly different duties, areas, and methods of operation. On many occasions he would be away when I was in the office and many days he was there and I was gone. He invariably traveled with the President; I did not. I had a separate travel schedule. I did many things with

and for the President, especially in the legislative and policy area, of which Mr. Haldeman was not aware.

Similarly, I had very little knowledge of what he was doing day-by-day.

I had a number of talks with Mr. Dean about Watergate, largely to keep posted on the campaign issues which I never had occasion to mention to Mr. Haldeman, but about which I talked to others, Mr. Ziegler, for example.

I simply want to make the point without overdrawing it, that Mr. Haldeman and I lived very separate lives and careers in and out of the office, Mr. Dean to the contrary notwithstanding.

The vast percentage of my working time was spent on substantive issues and domestic policy. About one-half of 1 percent was spent on politics, the campaign, and the events with which you have been concerning yourself as a committee. That is the context in which I hope you will receive this testimony.

Similarly, you must measure the President's role in all of this in true perspective. The 1972 campaign, the Watergate and its investigation competed for his attention with the claims of hundreds of Members of Congress, economists, diplomats, educators, scientists, labor leaders, businessmen, and countless other citizens. and with the demands of the problems of the Nation in their manifold and compound complexities, with the daily mail and the endless meetings, the speeches and other communication with the public, with the need for management, leadership, inspiration, and the need and desire for time to study and think. I see redeeming aspects in this process.

I have faith that good can result from this committee's efforts. In the future participants in political campaigns will surely be aware of the history of this time. And the standards which they will wish to impose upon themselves will be the product of the lessons of that history, whatever it may turn out to be. I have great optimism that the lessons of the history of this era will bring only good for this country.

Thank you, Mr. Chairman.

Mr. DASH. Mr. Ehrlichman, I think you indicated in your statement an extreme loyalty to the President in the position you held, first as counsel to the President, then as special assistant to the President in domestic affairs.

Would you tell the committee, when did you first begin to work with President Nixon in any political campaign?

Mr. EHRLICHMAN. Late in 1959, Mr. Dash.

Mr. DASH. Could you tell us what role you played?

Mr. EHRLICHMAN. Yes, I was an advance man in the 1960 campaign.

Mr. DASH. How did you obtain this assignment?

Mr. EHRLICHMAN. Through Bob Haldeman, who was the campaign tour manager in that campaign.

Mr. DASH. Could you tell the committee how you knew Mr. Haldeman at that time?

Mr. EHRLICHMAN. Yes, we had been at the university together.

Mr. DASH. I would take it, then, you were very close friends?

Mr. EHRLICHMAN. Not terribly close friends in college. We kept track of one another casually over the years and I was a guest at his home in Connecticut during a trip East in 1959 and he asked me if I would be interested in taking a leave from my practice and working in a political campaign.

Mr. DASH. It's true, then, that prior to that time you were in private practice of law?

Mr. EHRLICHMAN. Yes, sir.

Mr. DASH. Where was that, Mr. Ehrlichman?

Mr. EHRLICHMAN. In Seattle.

Mr. DASH. And what branch or area of the law did you specialize in?

Mr. EHRLICHMAN. Well, at first, I did trial work for 5 or 6 years and then, my practice narrowed and I began to specialize in the problems of real estate and land use and toward the latter part of my practice, before I left private practice and came here, I was largely dealing with either environmental problems or problems of land use.

Mr. DASH. Mr. Ehrlichman, during the 1960 campaign, when you were working with Mr. Haldeman and also for President Nixon as an advance man, is it true that you were serving to some extent as an undercover agent, sort of stalking Mr. Rockefeller, as has been once stated?

Mr. EHRLICHMAN. No, that was a prior episode. During the primaries, in the preconvention period of that 1960 campaign, Mr. Finch, who then was on the Vice President's staff—President Nixon then being Vice President—asked me if I would go to North Dakota and observe Governor Rockefeller's efforts to rejuvenate a then abandoned Presidential aspiration. He had been running, he decided not to, he decided to get back in, and he was making a tour of the Midwest to see if he could pick up some convention delegates. So I went there for that purpose.

Mr. DASH. And what role did you play when you went to North Dakota?

Mr. EHRLICHMAN. Well, other than being a driver in Governor Rockefeller's motorcade, I was simply an observer.

Mr. DASH. How did you obtain that position as a driver in the motorcade?

Mr. EHRLICHMAN. Through mutual friends.

Mr. DASH. I take it that you were considered part of Mr. Rockefeller's entourage?

Mr. EHRLICHMAN. Well, I don't imagine that it really occurred to anybody to ask.

Mr. DASH. Who were you reporting to at that time?

Mr. EHRLICHMAN. Mr. Finch.

Mr. DASH. Now, in the 1968 campaign, did you play any role in the political campaign?

Mr. EHRLICHMAN. I was the tour director.

Mr. DASH. And what function did the tour director have?

Mr. EHRLICHMAN. Well, that is largely dealing with problems of scheduling, advancing, and logistics. And the care and feeding of the press. [Laughter.]

Mr. DASH. Care and feeding of the press.

Now, when Mr. Nixon was elected President, you joined the White House staff first as counsel to the President?

Mr. EHRLICHMAN. That is correct.

Mr. DASH. When did you move from that position to the position of Assistant to the President for Domestic Affairs?

Mr. EHRLICHMAN. It was near the beginning of 1970. I can't recall the exact date, but in the first couple of months of 1970, I believe.

Mr. DASH. Now, at that time, what was Mr. Haldeman's position?

Mr. EHRLICHMAN. I think he held the same position throughout the first term.

Mr. DASH. That was as staff director?

Mr. EHRLICHMAN. Yes.

Mr. DASH. And again, I take it, you were working closely with your former colleague, Mr. Haldeman, in this position.

Mr. EHRLICHMAN. Well, less closely as Assistant to the President for Domestic Affairs than I had as counsel.

Mr. DASH. What was your official working relationship, then, with Mr. Haldeman as assistant to the counsel?

Mr. EHRLICHMAN. Assistant to the President?

Mr. DASH. To the President; yes.

Mr. EHRLICHMAN. I had an area of responsibility in which I was pretty autonomous in the sense that I could either select staff or delegate the selection of staff to any deputy. As it developed, we had a separate budget so that our budget was not worked around through the White House budget, which Mr. Haldeman had responsibility for. My responsibilities were on a direct line with the President rather than as previously, through Mr. Haldeman.

Mr. DASH. But did you consider Mr. Haldeman as senior to you in the White House staff?

Mr. EHRLICHMAN. Well, I don't think anybody on the White House staff ever considers anybody else senior to him.

Mr. DASH. I take it other than the President?

Mr. EHRLICHMAN. Right. [Laughter.]

Well, it is a sort of a metaphysical concept among the assistants to the President as to who is senior to whom. My reporting relationship, so to speak, was direct to the President at that point and only on—in a limited number of cases did I come under Mr. Haldeman's area of interest, so to speak.

Mr. DASH. Well, since you had the earlier working relationship, and I take it also a friendly relationship with Mr. Haldeman, would it not be true that quite apart from whatever the chart of hierarchy would show, you did have a relationship with Mr. Haldeman in which you would discuss matters and communicate with each other?

Mr. EHRLICHMAN. Oh, certainly, certainly.

Mr. DASH. And I take it that if you knew of anything of importance that he should know, you would let him know about it?

Mr. EHRLICHMAN. Well, we had a kind of clearinghouse meeting every week of the senior staff in the White House, and that was for the purpose of tabling anything that others needed to know of a business nature. We tried to have that meeting early enough in the morning so that before the President opened business, so to speak, we had all of those things in the mutual knowledge and understanding of everybody in the group. And that was a group—well, actually, there were two of those meetings: one a large meeting, and then one of anywhere from five to eight senior staff people.

Mr. DASH. And your knowledge of Mr. Haldeman, certainly over the years, and especially when you worked with him in the White House, was he a person who was a well-organized person and also a person who wanted to know all of the facts?

Mr. EHRLICHMAN. Well, he was certainly well organized. I think he has the ability not to want to know all the facts, which is one of the

big problems, sifting out what you need to know from what just wastes your time. I think he had developed an ability to discriminate what was important from what wasn't important.

Mr. DASH. Well, then, he certainly wanted to know what was important?

Mr. EHRLICHMAN. I think that is fair to say.

Mr. DASH. Now, what was your official and working relationship with Mr. John Dean during the period, say, from January 1972, actually until you left the White House?

Mr. EHRLICHMAN. Well, in point of fact, Mr. Dean was not on my staff, from a strictly table of organization standpoint. My contact with him would be, oh, three, four times a month on subjects that we shared a common interest or concern in, and they might be problems of mixed substantive and technical interest such as this whole problem of impounding of appropriated funds, which was both a substantive problem from my standpoint and from a budgetary standpoint, and a very tough, technical, legal problem, which Mr. Dean was working on in conjunction with the Justice Department.

So we would come together on problems of that kind.

Mr. DASH. Well, even though you have described these so-called seniority relationships in metaphysical terms, would it be true to say that you were certainly senior to Mr. Dean?

Mr. EHRLICHMAN. Yes, Mr. Dean, I would think, was in the second rank, just immediately under five or six assistants to the President.

Mr. DASH. And if Mr. Dean had important matters which he felt either were in your area of concern or that you should know, he would report to you?

Mr. EHRLICHMAN. Hopefully.

Mr. DASH. And he also did have a reporting function to Mr. Haldeman?

Mr. EHRLICHMAN. I am sorry, would you say that again?

Mr. DASH. Did he have a reporting responsibility to Mr. Haldeman?

Mr. EHRLICHMAN. Well, I don't know what arrangement was developed between the two of them. When I was counsel to the President, that was my line of report, through Mr. Haldeman to the President, and then eventually, it got more and more to be directly to the President. But the counsel to the President is housed in the White House staff, and he is in the White House staff budget, and his line of report is to the chief of that staff, who in this case is Mr. Haldeman.

Mr. DASH. But it would not be true that many people would feel, with some exceptions, that Mr. Dean, although he had the title of "Counsel to the President," would be frequently, on a daily basis or a regular basis, meeting with the President and counseling the President directly?

Mr. EHRLICHMAN. Well, I don't know if that is a question or an—

Mr. DASH. It is a question.

Mr. EHRLICHMAN. What a lot of people thought?

Mr. DASH. No, what your statement of the position was. You held that position and you knew, and Mr. Dean held it.

Mr. EHRLICHMAN. Maybe we had better start over again, Mr. Dash.

Do you want to put the question again? I don't think I am tracking with you.



Mr. DASH. Despite the fact that Mr. Dean held the position of Counsel to the President, is it your statement that he would not be reporting on a daily basis or even a frequent basis with the President, to the President directly, but would be reporting to a senior staff member?

Mr. EHRLICHMAN. Well, it depends. If there is a matter in which the President is taking a personal interest, a subject matter in which he is taking a personal interest, he might very well ask for a direct reporting relationship with Mr. Dean on that subject matter, and in fact, did, obviously.

On the other hand, if it is purely a routine kind of staff function that Mr. Dean is performing of one kind or another, relating to—well, let us see what would be a good example—something that might relate, say, to the White House grounds and the contractual relationship with the Park Department, or something of this kind, he would report to Mr. Haldeman. There would be no reason to establish a direct relationship to the President.

Mr. DASH. Well, did you have any personal knowledge of how frequently Mr. Dean directly reported to the President?

Mr. EHRLICHMAN. It would come to my attention from time to time that he was doing so in a specific matter, but I certainly did not try and, you know, keep track.

Mr. DASH. Would you have an opinion as to how frequently that would be?

Mr. EHRLICHMAN. No, I would not.

Mr. DASH. If the White House logs indicated that Mr. Dean, from the time of his appointment in 1970 to some time in February 1973, actually saw the President 10 times, would that surprise you?

Mr. EHRLICHMAN. No, I do not think the number of face-to-face contacts is really the test. It is a question of the flow. A great deal of my work, for instance, with the President would not show on any log of my personal contacts with him. The President is an individual who works off a piece of paper much better than he works face to face. So I think there is a real danger of inaccuracy in drawing conclusions from that kind of a tabulation.

Mr. DASH. Now, what was your official and working relationship with Mr. Colson?

Mr. EHRLICHMAN. I did not have an official relationship in the sense that he was on my staff or anything of that kind. Like Mr. Dean, from time to time, he would have a subject matter in his office, which I also had in mine, substantive subject matter. More typically, Mr. Colson, as sort of the White House man to organize interest groups, would come to me with a point of view, almost as an advocate for his clientele, so to speak, and say, "You have got to leave those veterans' hospitals open, because the veterans' groups are really worked up about this, and I have just had a meeting with them, and they say this and this and this, and here are some facts that maybe you do not have."

So it is those kinds of situations, typically, that I would be hearing from Mr. Colson.

Mr. DASH. Did you know of Mr. Strachan's position with Mr. Haldeman?

Mr. EHRLICHMAN. I learned a great deal more about it in the last 2 days than I ever knew before.

Mr. DASH. Were you aware of his particular role as liaison between Mr. Haldeman and the Committee To Re-Elect the President?

Mr. EHRLICHMAN. Only very vaguely.

Mr. DASH. Did he ever report anything to you when he came back from the Committee To Re-Elect the President?

Mr. EHRLICHMAN. No.

Mr. DASH. Now, were you aware of the fact that by the summer of 1970, Mr. Haldeman and the President had felt a need for an improved intelligence system with regard to domestic dissent or internal security?

Mr. EHRLICHMAN. The answer to the question is, yes, but not the Huston plan. There have really been two things talked about in the course of the hearings, and I knew about one of them and I had only the merest brush with the other.

Mr. DASH. The question really is not about the Huston plan. I asked you whether you were aware of a feeling for the need for an improved intelligence plan to deal with, say, internal security?

Mr. EHRLICHMAN. Well, I was aware of the feeling of the need, and I shared it.

Mr. DASH. All right.

Now, what plan were you aware of?

Mr. EHRLICHMAN. I was aware of a proposal which eventually, I believe, was put into effect to establish a small office in the Justice Department to correlate and coordinate and bring together in one place what the various law enforcement agencies, both in and out of the Federal Government, knew about these terrorism bombings and the violent—the street violence and these other activities that were going on around the country because it looked then like there really was a pattern, and that it was a coordinated, planned, and executed thing. These things went in waves from one part of the country to the other, and it appeared that if what the police knew, for instance, in the city of New York could be shared with the police in other parts of the country, that you would get a whole lot better response to this kind of lawbreaking.

So under Mr. Mardian's aegis, this effort was made to bring together the things that were known to all of the law enforcement people around the country.

Mr. DASH. All right.

Now, did you know about the Huston plan?

Mr. EHRLICHMAN. I did not know about the Huston plan until I was invited to attend a meeting that I think has been previously referred to here in the President's Office, attended by Admiral Gayler and J. Edgar Hoover and the heads of the various—Mr. Helms, the heads of the various intelligence agencies, where this proposal was announced.

Mr. DASH. What was the stage of that proposal at this point announced as a proposal that would go forward?

Mr. EHRLICHMAN. I gathered it was an accomplished fact.

Mr. DASH. Yes. Did you know what the proposal was about?

Mr. EHRLICHMAN. Just from what I heard at that meeting. I had not seen the writeup.

Mr. DASH. Did you know that the proposal included removal of certain restrictions on break-ins, surreptitious entry, or wiretapping?

Mr. EHRLICHMAN. No; I do not believe that was discussed at the meeting.

Mr. DASH. It never came to your attention that was in the plan?

Mr. EHRLICHMAN. No, it did not.

Mr. DASH. And Mr. Haldeman, who played such an important role in that, never discussed that with you?

Mr. EHRLICHMAN. Would you say the first part of the question again?

Mr. DASH. I say, Mr. Haldeman, who played an important role in working on the plan and having it recommended to the President, never discussed those aspects of the plan with you?

Mr. EHRLICHMAN. No, nobody discussed any aspects of the plan with me.

Mr. DASH. Why were you called to the meeting?

Mr. EHRLICHMAN. Well, I do not know that. There were quite a few spare characters at the meeting from the White House staff and I was simply there to get information.

Mr. DASH. Just to get information. Were you asked to express an opinion?

Mr. EHRLICHMAN. No.

Mr. DASH. So far as you know, the plan was approved?

Mr. EHRLICHMAN. That was the tenor of the meeting.

Mr. DASH. Did you ever hear of anything else about the plan?

Mr. EHRLICHMAN. Yes, I heard that the Director of the FBI, in effect, scuttled it by his objection to it, with the support of the Attorney General.

Mr. DASH. Did you know why he objected to it?

Mr. EHRLICHMAN. I do not think I ever knew with any particularity why. It was pretty obvious to me from hearing what I heard in the hearing that he was losing a good deal of sovereignty and the Bureau was going to be asked to do, to enter into intelligence-gathering activities that the Director did not want it in and I assumed that that was the basis for his objection.

Mr. DASH. In other words, your assumption was that Mr. Hoover objected to the plan because it invaded his territory rather than because it had any parts to it that dealt with more surreptitious entry or wiretapping?

Mr. EHRLICHMAN. I am not your best witness on this, Mr. Dash. It was purely an assumption on my part and I do not think anybody ever told me.

Mr. DASH. You never sought to inquire as to why a plan that you saw at a meeting was being approved and would go forward, was being ditched because of Mr. Hoover's objection?

Mr. EHRLICHMAN. It was so far out of my bailiwick at that time that I just had no occasion.

Mr. DASH. Was it out of your bailiwick to be interested in the gathering of political intelligence?

Mr. EHRLICHMAN. At that time, yes.

Mr. DASH. Now, did there come a time when it was not outside your bailiwick?

Mr. EHRLICHMAN. Well, it had been my bailiwick when I was counsel. As assistant for domestic affairs, I had very little occasion to be involved in questions of political intelligence or political anything, for that matter.

Mr. DASH. Well, after the Huston plan did not go forward, as you understood it to be, were you assigned a role to create in the White House a capability for intelligence-gathering at any time?

Mr. EHRLICHMAN. I do not know quite what you are getting at. If you are getting at the special unit and the problems of leaks—

Mr. DASH. I do not know why you have to find out what I am getting at, if you just answer my question as I ask it.

Mr. EHRLICHMAN. It is an obscure question.

Mr. DASH. It is a simple question. If the answer is "No," say "No." If the answer is "Yes," say "Yes."

Mr. EHRLICHMAN. Would you restate the question for me, please?

Mr. DASH. I said, did there come a time when you were asked to develop a capability in the White House for intelligence-gathering?

Mr. EHRLICHMAN. Intelligence-gathering, the answer would be "No."

Mr. DASH. All right.

Now, you were trying to see what I was getting at. Were you ever asked to set up a special unit in the White House for the purpose of determining whether certain leaks had occurred in major national security areas?

Mr. EHRLICHMAN. In point of fact I was—and strictly in terms of your question, I was not asked to set it up. Mr. Krogh was asked to set it up.

Mr. DASH. Who is Mr. Krogh?

Mr. EHRLICHMAN. Bud Krogh, Egil Krogh, Jr., was a member of the Domestic Council staff, and he was asked by the President to form this special unit. I was designated as one to whom Mr. Krogh could come with problems in connection with it, and the President said also that he could come to him with problems.

Mr. DASH. Were you in at the beginning of the setting up of this plan?

Mr. EHRLICHMAN. Yes, I was.

Mr. DASH. And you knew what the unit was to do?

Mr. EHRLICHMAN. Yes.

Mr. DASH. What was the unit to do?

Mr. EHRLICHMAN. The unit as originally conceived was to stimulate the various departments and agencies to do a better job of controlling leaks and the theft or other exposure of national security secrets from within their departments. It was a group which was to bring to account, so to speak, the various security offices of the Departments of Defense, and State, and Justice, and CIA, to get them to do a better job.

Mr. DASH. And, therefore, this unit was to gather facts, if there was a leak or to act as a deterrent, I take it, to prevent leaks.

Mr. EHRLICHMAN. No, there would have been no need to gather facts under that concept, except to know that there had been an occurrence, but to require vigorous and very active effort on the part of the responsible people in the departments and agencies to find out who was responsible and how it happened and to make sure it couldn't happen again.

Mr. DASH. Isn't that getting facts. If you were seeking to find out who was responsible and the unit was looking for it, wouldn't you be wanting to get facts?

Mr. EHRLICHMAN. I am sorry, you were asking as to intelligence?

Mr. DASH. You are jumping again ahead of me. I didn't say intelligence, I said facts.

Mr. EHRLICHMAN. All right, facts in that sense, but limited to that.

Mr. DASH. All right. Would you say some people who go to seek facts in an investigative way can also say they seek intelligence?

Mr. EHRLICHMAN. Well, but you see what I am trying to say to you is as originally set up and conceived this was not an investigative unit in the sense that your question implies. It was far more a group that was established for the purpose of getting the security people in the departments and agencies to do a better job of their job.

Mr. DASH. Was it ever called or was it ever referred to as an investigative unit?

Mr. EHRLICHMAN. Subsequently it was because it became an investigative unit subsequently.

Mr. DASH. So there came a time when you were administering an investigative unit?

Mr. EHRLICHMAN. Yes, in a literal sense, that is true.

Mr. DASH. Literal sense?

Mr. EHRLICHMAN. Yes, sir.

Mr. DASH. Not in an actual sense?

Mr. EHRLICHMAN. Well, here I am dueling with a professor.

Mr. DASH. I am not dueling with you. I am just trying—

Mr. EHRLICHMAN. Professor, if you say actual, it is actual.  
[Laughter.]

Mr. DASH. I don't want you to take my questions and I don't want to put words in your mouth.

Mr. EHRLICHMAN. Sure, I am trying to give you—

Mr. DASH. I really want to have you answer to the best of your recollection.

Mr. EHRLICHMAN. Sure, I am trying to give you the real essence of this as we go along and I don't mean to be fencing over words.

Mr. DASH. Could you please tell us in as clear a way as you can what the responsibilities of this particular unit were both in the beginning and how it developed, and as it developed later?

Mr. EHRLICHMAN. I told about the beginning of it. Let me tell you how it evolved. At a point in time in connection with the Pentagon Papers theft, a whole series of events took place. One of the first of them was that the Pentagon Papers, which were marked secret and top secret and which were Defense Department, largely Defense Department documents, were turned over to the Russian Embassy. I knew this because I had a call from Mr. Mardian, the Assistant Attorney General advising me that the Justice Department had this firm fact. The Attorney General came over and reported to the President that this theft had evidently been perpetrated by a number of people, a conspiracy, and that some of the people were identified by the Department of Justice as having had previous ties to domestic communist activities.

The Attorney General then reported in response to an inquiry, and maybe I had better tell you how the inquiry came up. Mr. Krogh came to me and said "I am having real trouble getting the FBI to move on this." And so I said "Well" and basically my function was to do down-field blocking for Mr. Krogh when he had problems in the Department.

I said "OK, I will contact the Attorney General and see what I can do," which I did. The Attorney General called me back and he said:

We have a very tough problem here. It appears that a top man in the FBI put in a routine request that Mr. Ellsberg's father-in-law be interviewed. The Director has given that top man notice that he is going to be transferred and demoted, and he has further given notice that that interview and interviews of that family are not to take place.

Now this was the area in which Mr. Krogh and the special unit were pressing for the Department of Justice to bring information together as was their job to do. The Attorney General said "I am going to reverse this decision on the part of the Director to transfer this man and demote him" but he said "We have a very touchy situation with the Director. Mr. Sullivan in the Bureau is extremely upset and concerned and disagrees strongly with the Director in this matter, I don't know but what Mr. Sullivan may quit as a result of this whole episode, it's very touchy within the Bureau." I said "What are our chances of getting the Bureau to move ahead on this right away," and he said "Very slim or none."

So it was very—this set of facts, and the real strong feeling of the President that there was a legitimate and vital national security aspect to this, that it was decided, first on Mr. Krogh's recommendation, with my concurrence, that the two men in this special unit who had had considerable investigative experience, be assigned to follow up on the then leads and rather general leads which were in the file.

Mr. DASH. Who were these two men?

Mr. EHRLICHMAN. Hunt and Liddy.

Mr. DASH. Now, did you know Mr. Hunt or Mr. Liddy?

Mr. EHRLICHMAN. I had met Mr. Hunt once briefly. I had never met Mr. Liddy.

Mr. DASH. Did you meet him or come in contact with him during the time he worked in the special unit?

Mr. EHRLICHMAN. No.

Mr. DASH. At no time?

Mr. EHRLICHMAN. I don't believe I have ever met him.

Mr. DASH. Now—

Mr. EHRLICHMAN. Wait a minute, I will take that back. He may have been in my office once, and I can't say whether it was before or after, in connection with a project that Mr. Krogh was working on relating to the organization of the Justice Department which was his area of responsibility. It is possible that Liddy attended that meeting. I have a vague recollection of that.

Mr. DASH. Now, Mr. Young also worked in this unit, did he not?

Mr. EHRLICHMAN. Yes.

Mr. DASH. And he worked under Mr. Krogh?

Mr. EHRLICHMAN. He worked as a kind of a cochairman.

Mr. DASH. What was the reporting relationship between Mr. Young and Mr. Krogh to you?

Mr. EHRLICHMAN. Well, Mr. Krogh, of course, was on my staff, and maintained the same reporting relationship to me that he had always maintained. Mr. Young began reporting to me at the time that he joined that special unit.

Mr. DASH. You say the same reporting relationship. Was this a regular reporting relationship?

Mr. EHRLICHMAN. As needed. We didn't have a system of weekly reports or monthly reports or anything of that kind but just when something came up that required my attention they would let me know.

Mr. DASH. And if it was important, they would report, would they not?

Mr. EHRLICHMAN. I would hope that most of my people would handle things themselves. Usually it got to me—I mean I am talking now about routine domestic things, they got to me as the last step before they went to the President.

Mr. DASH. Did you ever initiate any instructions to them?

Mr. EHRLICHMAN. I was asked to ratify a number of their decisions from time to time, and their practice, Young and Krogh we are now talking about.

Mr. DASH. Yes.

Mr. EHRLICHMAN. Their practice would be to send me periodic information reports or status reports or progress reports and sometimes those would contain requests for either approval of a decision that they had made or proposals that they had or something of that kind.

Mr. DASH. Is this the special investigations unit that later became, began to be known popularly as the plumbers?

Mr. EHRLICHMAN. Yes.

Mr. DASH. When did that occur?

Mr. EHRLICHMAN. That it became known as that?

Mr. DASH. Yes.

Mr. EHRLICHMAN. I don't know. That was never a term that was familiar to me until it was used in the press.

Mr. DASH. Were you aware that there was actually a sign to the door, the plumbers?

Mr. EHRLICHMAN. No. It may be apocryphal, I am not sure.

Mr. DASH. Now, did you actually interview Mr. Hunt before he was hired?

Mr. EHRLICHMAN. No; I had a meeting with Mr. Colson and Mr. Hunt after he was hired. It was in July of 1971 and I believe that is the only time I have seen Mr. Hunt.

Mr. DASH. Would it be fair to say that Mr. Colson very much wanted Mr. Hunt to be hired?

Mr. EHRLICHMAN. That would be fair to say.

Mr. DASH. And you acceded to his request?

Mr. EHRLICHMAN. Well, it was an accomplished fact, I think, by the time I saw him.

Mr. DASH. Now, did you make a call for Mr. Hunt to the CIA shortly after you saw him?

Mr. EHRLICHMAN. Well I cannot recall ever making such a call.

Mr. DASH. Now, you said that the major responsibility of this unit developed because of the need for the unit to go ahead on an investigation of the so-called Pentagon leaks. Were there any other responsibilities or assignments given to this unit?

Mr. EHRLICHMAN. Yes.

Mr. DASH. Could you state what they were?

Mr. EHRLICHMAN. Well, I can state some of them; I cannot state all of them.

Mr. DASH. The ones that you can?

Mr. EHRLICHMAN. The strategic arms limitations negotiations were underway in the summer of 1971 and a newspaper obtained the U.S. negotiating position, in effect, the secret script for the U.S. negotiators in that negotiation. That came close on the heels of the Pentagon Papers episode and was a major cause of concern for the President and for those dealing in this area of foreign policy. This special unit was asked to see if they could determine the source of that leak.

Mr. DASH. Do you know what actions the special unit took in seeking to carry out that responsibility?

Mr. EHRLICHMAN. In general terms, I do. I know that they worked through the security people at the State Department and the Defense Department. They narrowed down the probable source of that leak, and I believe there were some personnel actions taken as a result of that.

Mr. DASH. Did you become aware of any wiretapping that took place at the request of the President and approved by the Attorney General in regard to that?

Mr. EHRLICHMAN. In regard to the SALT leak?

Mr. DASH. Yes.

Mr. EHRLICHMAN. No.

Mr. DASH. Did you become aware of any wiretapping that was authorized by the President and also the Attorney General with regard to any particular leaks involving national security at this time?

Mr. EHRLICHMAN. The answer to your question, Mr. Dash, is "Yes." It was in relation to an investigation in 1971. Beyond that I cannot go.

Mr. DASH. You say it did not relate to the SALT leaks?

Mr. EHRLICHMAN. No, sir.

Mr. DASH. Did you know anything about the so-called Kissinger taps?

Mr. EHRLICHMAN. Yes. I knew—I did not know at the time the details of those taps; that is, who was being tapped, the purpose, the extent, and so on. I knew generally that such a thing was going on.

Mr. DASH. And did you know who had approved that?

Mr. EHRLICHMAN. I do not know of my own knowledge; no.

Mr. DASH. Well, how did you know? You said you knew generally. How did it come to your attention?

Mr. EHRLICHMAN. I think Mr. Haldeman told me obliquely and not directly and not with any degree of specific fact that such a thing was going on.

Mr. DASH. Did there come a time when you had more specific facts?

Mr. EHRLICHMAN. Well, obviously, in the last few months, I have learned a great deal more about that whole episode than I knew previously.

Mr. DASH. Well, did you ever receive the logs of those taps?

Mr. EHRLICHMAN. Yes, I evidently did without scrutinizing them, but I did receive them.

Mr. DASH. Could you tell us how you received them?

Mr. EHRLICHMAN. Yes, I received them from Mr. Mardian at the Justice Department.



Mr. DASH. And why did you receive them?

Mr. EHRLICHMAN. Well, pardon me. I did not make that clear. Mr. Mardian was at the Justice Department. I did not receive them at the Justice Department. I received them at the White House.

Mr. DASH. Why did Mr. Mardian give them to you?

Mr. EHRLICHMAN. He gave them to me because he felt that they should be in the custody of the White House and proposed that they be moved out of the Justice Department because he could not assure their safekeeping there.

Mr. DASH. Well, did you know that actually he was giving them to you at the direction of the President?

Mr. EHRLICHMAN. I did not know that until I heard him testify to that here. In point of fact, I referred the question to the President, perhaps unnecessarily, after Mr. Mardian originally talked to me about it. The President asked me then to take custody of them, which I did.

Mr. DASH. At that time, did you look at them or did you know what they contained?

Mr. EHRLICHMAN. I looked at them very, very quickly. He told me what they purported, what he said they were, which was the logs and correspondence and synopses of a national security investigation in 1969. Well, then, I related that to what Mr. Haldeman had described to me, and I—

Mr. DASH. And these were the logs and taps that were put on certain newspaper persons and certain staff members of Mr. Kissinger?

Mr. EHRLICHMAN. That is what I understand.

Mr. DASH. Where did you lodge these logs?

Mr. EHRLICHMAN. I lodged those in a two-drawer combination filing cabinet in one of the rooms of my office.

Mr. DASH. Do you know what time this was when you did that?

Mr. EHRLICHMAN. It would have been in the fall of 1971.

Mr. DASH. And how long did they stay there?

Mr. EHRLICHMAN. They stayed there until the day I resigned, which would have been the 30th of April of this year.

Mr. DASH. On that date, did something happen to them?

Mr. EHRLICHMAN. Yes, sir, those papers and all the papers in my office were then turned over to the President as Presidential papers.

Mr. DASH. Now, you were beginning to tell us about some of the other assignments that the Special Investigations Unit had. Would you go on and tell us about those?

Mr. EHRLICHMAN. There is only one other that is in the public domain that I know of, and that is an investigation into the circumstances of the leak of a CIA document relating to relations between India and Russia.

Mr. DASH. Now, did you, Mr. Ehrlichman, authorize the taps we just discussed or have any part in authorizing them, or any other wiretaps?

Mr. EHRLICHMAN. Would you break the question down for me, Mr. Dash? It is very compound.

Mr. DASH. Well, the first question is, Did you have any part or role in authorizing the taps we just talked about, of which you ended up being the custodian of the logs?

Mr. EHRLICHMAN. No.

Mr. DASH. Did you have any role in authorizing other wiretaps?

Mr. EHRLICHMAN. From time to time, I did.

Mr. DASH. What area, would you tell us?

Mr. EHRLICHMAN. Well, now we are in this area—

Mr. DASH. I am not asking for any specific taps. I am not asking for specificity.

Mr. EHRLICHMAN. National security, generally national security objectives. I am under a stricture which really doesn't permit me to be very responsive to your question.

Mr. DASH. We appreciate that and should there come a time when we have to get into it any more thoroughly, the committee can respond to that. But I am not going into any specific point.

Mr. EHRLICHMAN. I understand.

Mr. DASH. Did you authorize Mr. Liddy's wiretaps in your role of supervising the Special Investigations Unit?

Mr. EHRLICHMAN. In 1971, that was so. In 1969, as counsel, I authorized an attempt which never came to anything. It was not actually accomplished. But beyond that, it would have been in one of those two capacities, either as counsel in 1969 or in my relationship to this unit in 1971.

Mr. DASH. Were you aware of the electronic surveillance on Joseph Kraft's house?

Mr. EHRLICHMAN. That was the one that I was talking about in 1969 that, so far as I know, never happened.

Mr. DASH. Do you know who was involved in attempting to commit that wiretap?

Mr. EHRLICHMAN. Yes, Mr. Caulfield was.

Mr. DASH. I didn't hear you.

Mr. EHRLICHMAN. Mr. Jack Caulfield was.

Mr. DASH. Did you ever discuss that tap with the President?

Mr. EHRLICHMAN. I am sure I did.

Mr. DASH. Do you know what the purpose of the placing of that tap was?

Mr. EHRLICHMAN. It was a national security purpose.

Mr. DASH. Now, did it come to your attention that there was an effort to either break into the Brookings Institute or firebomb the Brookings Institute?

Mr. EHRLICHMAN. Yes.

Mr. DASH. Could you tell us how it came to your attention?

Mr. EHRLICHMAN. It came to my attention, I think, from John Dean at the time that he came to California, as he has described in his testimony.

Mr. DASH. And is his testimony essentially correct on that?

Mr. EHRLICHMAN. Well, I can't vouch for the hearsay aspects of it. He says Jack Caulfield told him that somebody else told him that I had authorized this thing, and that is hearsay so many times removed that it is very difficult to cope with.

I can say very briefly, I didn't authorize it.

Mr. DASH. Do you know who authorized it?

Mr. EHRLICHMAN. No, I don't.

Mr. DASH. Did you ever look into who authorized it?

Mr. EHRLICHMAN. No, I didn't.

Mr. DASH. What was he asking you to do about it?

Mr. EHRLICHMAN. He was asking me to make sure that that didn't happen.

Mr. DASH. Did you?

Mr. EHRLICHMAN. I believe I did.

Mr. DASH. How?

Mr. EHRLICHMAN. By a phone call.

Mr. DASH. To whom?

Mr. EHRLICHMAN. I can't recall, I am sorry to tell you.

Mr. DASH. If you could, we might know who authorized it.

Mr. EHRLICHMAN. Out of fairness—I could give you a list of people it might have been, but it has been so long ago, I can't remember who it was, but it was whoever he suggested that I call.

Mr. DASH. I don't want to go into a guessing game. But Mr. Dean did say that it was his understanding that it was Mr. Colson who authorized it and that is a name that he had given to you.

Mr. EHRLICHMAN. I can't testify of my own recollection on that and out of fairness to whoever is involved, I certainly would not want to lay before the committee a name here, because I can't vouch for it. I do remember the episode.

Mr. DASH. And you cut it off?

Mr. EHRLICHMAN. I believe that did it. He was just, really, looking for somebody to give a little clout to his feeling that it shouldn't happen.

Mr. DASH. I think you did indicate that you were aware of Tony Ulasewicz' assignments, either for the White House or for some person at the White House?

Mr. EHRLICHMAN. I don't know. My relationship with him, so to speak, ended at the time that I shifted jobs, in early 1970. He was a kind of facility of the counsel's office and he sort of went with the job.

Mr. DASH. Now, you did become aware at this point, I don't want to go into this specifically—of the activities of staff members of the special investigations unit, Mr. Hunt, and Mr. Liddy, with regard to the office of Mr. Ellsberg's psychiatrist?

Mr. EHRLICHMAN. Yes, I did.

Mr. DASH. And when did the so-called break in of the Ellsberg psychiatrist take place?

Mr. EHRLICHMAN. I have heard two dates, but it was around Labor Day of 1971.

Mr. DASH. And I take it that was a fact-gathering project?

Mr. EHRLICHMAN. That was the fact-gathering project that I mentioned before in relation to the theft of the secrets and the turnover to the Russians and the dilemma we had of the Bureau not moving on this.

Mr. DASH. And when do you say that you learned of that break in?

Mr. EHRLICHMAN. Within a day or two after my return from a Labor Day trip to Cape Cod.

Mr. DASH. Now, in the fall of 1971, did you also learn of the so-called Sandwedge plan which had been proposed for political intelligence gathering?

Mr. EHRLICHMAN. I don't know exactly when that was. Is the date important to you? I could look for it.

Mr. DASH. No, I am more interested in what you knew or learned of Mr. Caulfield's recommendations.

Mr. EHRLICHMAN. Jack Caulfield brought this little folder to me and asked me to look at it, and it was a plan for him to go out and set up an investigation agency, or a detective agency, basically, to do—

Mr. DASH. Is that what has been referred to basically as a Republican Intertel?

Mr. EHRLICHMAN. Right. It was a three or four page double spaced typewritten prospectus, is about what it amounted to. At that time, I was very much into the domestic policy business and very much out of the business of politics or political inquiry, and so I said, "Jack, you know, this isn't anything that I can help you on."

Mr. DASH. Now, having looked at it, were you aware that it included both covert and overt activities?

Mr. EHRLICHMAN. Well, it was not terribly specific about activities. It was mostly a selling piece about the kinds of people who would be involved and their ability to carry out an assignment, and that kind of thing.

Mr. DASH. Did it have a budget attached?

Mr. EHRLICHMAN. No—I don't recall one, I don't think so.

Mr. DASH. Now, I take it that all of these activities did at least show, even though some of them may have been abortive, a continued interest in the White House to approve intelligence-gathering so far as internal security matters. I think you have answered affirmatively that there was a feeling for need for this, and that these activities indicated that some efforts were going on in order to meet this need.

Mr. EHRLICHMAN. You have just scrambled the eggs, Mr. Dash. These are all very September subjects and you have taken me over a span of 3 years and you have taken me into a lot of different subjects, some of which were vital national security, some of which were pure politics, some of which were really a need in our law enforcement system in the country for coordination. You have dumped them all in a hat and stirred them around and said, "See what these bad fellows in the White House were doing."

Mr. DASH. I said nothing about bad fellows in the White House, and I asked you earlier whether or not you were aware of a need that people in the White House, Mr. Haldeman and perhaps yourself, felt, for an improved need for intelligence gathering.

Mr. EHRLICHMAN. As an isolated subject, you are absolutely right.

Mr. DASH. And there was a need?

Mr. EHRLICHMAN. There is no question in my mind.

Mr. DASH. And some of the things you have discussed did include implementation or an attempt to implement the fulfillment of that need?

Mr. EHRLICHMAN. Well, that particular need for knowing what the sheriff and the police department in New York City and the State patrol in California knew and bringing it together and comparing what is going on around the country actually came into being. It was a little, four, five, or six-man office over in the Justice Department, and they did a fine job of bringing together this information and putting out on teletype to various places in the country that these bands of bombers and people of that kind were going around blowing things up.

Mr. DASH. And the only purpose of the question was to find out that in fact some things were done and not to include inference of any bad guys in the White House.

Mr. EHRLICHMAN. That is very reassuring.

Mr. DASH. Now, was the concern centered on demonstrations or did this concern become centered on demonstrations and possible violence in the oncoming 1972 campaign?

Mr. EHRLICHMAN. I know there was concern for that. The original plan was to have the convention in San Diego. I can recall Mr. Dean asking me to convene a get-together with the mayor of San Diego, who happened to be an old friend of mine, in order that he could talk to him about the realities of the probable protest demonstrations at the Republican Convention in San Diego. So, I know there was that concern, because it was discussed at that time.

Mr. DASH. Now, did you become aware or did you play any role in the creation of the Committee To Re-Elect the President?

Mr. EHRLICHMAN. Well, that is two questions.

Yes, I became aware of it; no, I didn't play any role.

Mr. DASH. Now, did you know Mr. Magruder?

Mr. EHRLICHMAN. Oh, yes.

Mr. DASH. How did you know Mr. Magruder?

Mr. EHRLICHMAN. Well, Mr. Magruder worked at the White House. I met him there in connection with my duties and his. I can't say specifically on what occasion.

Mr. DASH. Now, do you know what role Mr. Haldeman played in the creation of the Committee To Re-Elect the President?

Mr. EHRLICHMAN. Specifically, I don't. I know he was obviously the one on the White House staff who was designated to be the—to take the primary interest in the campaign.

Mr. DASH. Now, when you say specifically, Mr. Ehrlichman, in some of my questions, when I ask them, I am really not probing to see whether you know this as an official, in your official capacity or whether you played a role.

Mr. EHRLICHMAN. Sure.

Mr. DASH. But whether you became aware, either through discussions with Mr. Haldeman, since you were there at the White House, or with the committee, to help it take form. And I think you had some knowledge as to who played some role in this. Whether this came as a—

Mr. EHRLICHMAN. Well, I have to go back to what I said in my opening statement, Mr. Dash, which is the truth, and that is that really, this whole area of politics and the Committee To Re-Elect and so on was less than a half of 1 percent of what I was doing in those days. And it may seem surprising that I was indifferent or uninformed, but that happens to be the fact.

Mr. DASH. Did you have any particular role in the campaign?

Mr. EHRLICHMAN. Only to the extent that I have set it out in my opening statement. I had about three functions which I set out there.

Mr. DASH. I take it you had an interest in the reelection of the President?

Mr. EHRLICHMAN. A very strong interest.

Mr. DASH. And that you were dedicated to his reelection?

Mr. EHRLICHMAN. Certainly.

Mr. DASH. Did you know that Mr. Gordon Liddy, who had been a staff member in your Special Investigations Unit, took on a very important role in the Committee To Re-Elect the President?

Mr. EHRLICHMAN. I did not know it at the time.

Mr. DASH. Did you know that Mr. Krogh, who worked directly under you, had recommended him for that job?

Mr. EHRLICHMAN. I don't believe I knew that.

Mr. DASH. And that never came to your attention at that time?

Mr. EHRLICHMAN. Not at that time, no.

Mr. DASH. When did you first learn this?

Mr. EHRLICHMAN. I heard it testified to and I have no recollection of having that question referred to me. It's not the kind of question that ordinarily would come to me; that is, a personnel question of that type.

Mr. DASH. You mean you first heard about it during testimony?

Mr. EHRLICHMAN. I believe so. I believe so.

Mr. DASH. I know you are very busy, Mr. Ehrlichman—

Mr. EHRLICHMAN. It is not a question of that. It is how we were set up. Personnel questions of that type, somebody leaving or somebody being hired, or so forth, were most generally handled by my deputy, who handled personnel things.

Mr. DASH. I am not asking the question now of whether you had a personnel relationship or knew it that way, and I know how busy you stated you were, but certainly you became aware of the break-in of the Democratic national headquarters?

Mr. EHRLICHMAN. Oh, certainly, of course.

Mr. DASH. And you read the newspapers about that?

Mr. EHRLICHMAN. That is right.

Mr. DASH. Did there come a time shortly after the break-in that you read of Mr. Liddy's involvement?

Mr. EHRLICHMAN. Oh, yes, certainly.

Mr. DASH. And at that time, did you read that Mr. Liddy worked for the Committee To Re-Elect the President?

Mr. EHRLICHMAN. Yes.

Mr. DASH. So it is not true that you first learned about it in testimony.

Mr. EHRLICHMAN. I am sorry, the testimony that I heard here, to which I was trying to be responsive, was testimony of one of the witnesses, who said Mr. Krogh said—here we are getting into all this hearsay again—that he had to get my approval for Liddy to go over to the committee, and that is the first that I ever heard that I was supposed to have approved his going over there.

Mr. DASH. Mr. Ehrlichman, I suggest what you are doing again is anticipating the meaning of my question. The question put to you was did you know that Mr. Liddy was employed at the Committee To Re-Elect the President, not did you have a responsibility in that employment.

Mr. EHRLICHMAN. I see.

Mr. DASH. When you said no, I said, when did you first learn? You said from the testimony. Now, you can correct that answer.

Mr. EHRLICHMAN. I see.

Mr. DASH. You were assuming one meaning to my question which was not in my question.

Mr. EHRLICHMAN. That, I understand, is Ervin's law at work.

Mr. DASH. Now, do you want to correct your answer as to when you first learned that Mr. Liddy was employed at the Committee To Re-Elect the President?

Mr. EHRLICHMAN. I think it must have been subsequent to the break-in at the Watergate.

Mr. DASH. And do you know how soon subsequently, how many days or weeks, after the break-in?

Mr. EHRLICHMAN. No, I think rather soon, within a matter of days after.

Mr. DASH. Now, you knew certainly at that time, that Mr. Liddy had been involved in the break-in of the psychiatrist's office of Mr. Ellsberg?

Mr. EHRLICHMAN. Yes.

Mr. DASH. Did you say anything to anybody at that time when you read in the newspapers about this same Mr. Liddy, now working for the President's campaign, being involved in another break-in at the Democratic National Committee headquarters?

Mr. EHRLICHMAN. I am sure I must have commented on it.

Mr. DASH. Commented? To whom?

Mr. EHRLICHMAN. I have no—I don't recall offhand. It would not have been a—it is the kind of thing that was a matter of general conversation at that time.

Mr. DASH. Was this a matter of curiosity or were you concerned?

Mr. EHRLICHMAN. For instance, I am sure I talked to John Dean about it. As a matter of fact, he may have been the one that first let me know that Liddy was involved and that it is the same Liddy who was at the White House.

Mr. DASH. As a matter of fact, is that not true that rather than learning it from the newspaper you learned about it from Mr. Dean?

Mr. EHRLICHMAN. I think that undoubtedly is the case.

Mr. DASH. Now, were you informed after March 30, 1972, that the Committee for the Re-Election of the President had a sophisticated intelligence system with a budget of around \$250,000 or \$300,000?

Mr. EHRLICHMAN. No.

Mr. DASH. Do you know whether Mr. Haldeman was?

Mr. EHRLICHMAN. Not of my own knowledge, I do not, no.

Mr. DASH. All right.

Now, when did you, Mr. Ehrlichman, learn for the first time of the break-in of the Democratic National Committee headquarters?

Mr. EHRLICHMAN. It was the following day when I received a telephone call.

Mr. DASH. Where were you at that time?

Mr. EHRLICHMAN. At home.

Mr. DASH. And what, if anything, did you do?

Mr. EHRLICHMAN. I made a couple of phone calls in response.

Mr. DASH. How soon thereafter did you learn that Mr. Hunt was involved?

Mr. EHRLICHMAN. His name was mentioned in the original phone call.

Mr. DASH. And who made that phone call to you?

Mr. EHRLICHMAN. Mr. Boggs of the Secret Service.

Mr. DASH. How was Mr. Hunt identified as having been involved?

Mr. EHRLICHMAN. As one of the people arrested had his name in their possession.

Mr. DASH. And then, shortly after did Mr. Dean make a report to you about what he had learned about the break-in?

Mr. EHRLICHMAN. That would have been the afternoon of the 19th, that would have been the following Monday, I believe.

Mr. DASH. Following Monday. What did he tell you?

Mr. EHRLICHMAN. He just gave me a rundown of the identity of the individuals. He told me that he had talked to Liddy, I think, that day or possibly it was the next day that he told me this. That Liddy had told him that it was his operation, in effect, that he, Liddy, was involved, but that nobody at the White House was involved. I think that was about the—

Mr. DASH. Did he report to you about his interview and conversation with Mr. Magruder?

Mr. EHRLICHMAN. I do not recall his doing so.

Mr. DASH. So, to your recollection, you say Mr. Dean never told you about Mr. Magruder's involvement?

Mr. EHRLICHMAN. Oh, I do not say never but we are talking this first day.

Mr. DASH. At that time.

Mr. EHRLICHMAN. At least, I do not recall it if he did.

Mr. DASH. So at least by the 19th of June, which is 2 days after the break-in, one, on the basis of a call from a Secret Service man, and the other from Mr. Dean, that the two men who had been involved in the so-called Ellsberg break-in were involved in the break-in of the Democratic National Committee headquarters?

Mr. EHRLICHMAN. That is correct.

Mr. DASH. These two men, at least one of them specifically, Mr. Liddy, had a position of some responsibility with the Committee To Re-Elect the President of the United States?

Mr. EHRLICHMAN. Well, I obviously learned that he was working at the committee. I do not know about the responsibility part.

Mr. DASH. Did you know he was counsel for the Finance Committee for the Re-Election of the President?

Mr. EHRLICHMAN. I am not sure that I did, whether it was described in those terms.

Mr. DASH. Now, having learned that persons who had the prior history that you knew about were working in a close relationship to the campaign for the reelection of the President you were so dedicated, honestly dedicated to see that he was reelected, did this produce any concern on your part with regard to the campaign itself?

Mr. EHRLICHMAN. Well, this was, by Monday was a campaign issue. And within a matter of hours the opposition had filed lawsuits and were making public statements, and there is not any question about the fact that it was an important campaign issue. Yes, I was concerned about it.

Mr. DASH. Would it also be even more of a serious campaign issue if it developed or was revealed that Mr. Hunt and Mr. Liddy had broken into the office of Mr. Ellsberg's psychiatrist, the same two people?



Mr. EHRLICHMAN. No, I would not think so. They were certainly identified as former White House people in the media, and that was, that connection was, known. This connection was established.

Mr. DASH. What connection was established?

Mr. EHRLICHMAN. Their connection with the White House.

Mr. DASH. Yes, but it had not established that Mr. Hunt and Mr. Liddy had broken into the psychiatrist's office of Mr. Ellsberg. At that point it had not been publicly known?

Mr. EHRLICHMAN. No, it was not publicly known.

Mr. DASH. Are you telling the committee that the additional information that these former White House staffers working under your direction had broken into Mr. Ellsberg's psychiatrist's office would not have created an even more seriously embarrassing situation for the campaign?

Mr. EHRLICHMAN. I would not think so, Mr. Dash, for several reasons. No. 1, that episode was a part of a very intensive national security investigation which had been impressed with a very high security classification. The likelihood of that being disclosed was very slight.

No. 2, those people were operating, at least I believe they were operating, under express authorization—

Mr. DASH. Express authorization to break in?

Mr. EHRLICHMAN. Yes, sir. Under a national security situation, under a situation of considerable moment to the Nation in the theft of top secret documents, and their apparent delivery to the Soviet Embassy. It never was my view that Hunt and Liddy, as individuals, had done something that was completely irrational in that break-in. In other words, they were operating in a national security setting and pursuant to either instructions or authorization and, that being the case, that had never been a subject which I considered to be seriously embarrassing.

Mr. DASH. Let us first take the first point you made, which was that it would be unlikely that it would be revealed.

Mr. EHRLICHMAN. Right.

Mr. DASH. And I take it, it would be unlikely to be revealed was because neither Mr. Hunt or Mr. Liddy would talk about it?

Mr. EHRLICHMAN. Neither would they talk about it nor would a prosecutor talk about it if they told him, nor any employee of the Federal Government aware of the national security characteristic of it be talking about it.

Mr. DASH. How would you be assured of the fact that Mr. Hunt and Liddy would not talk about it?

Mr. EHRLICHMAN. Well, the only assurance that one could have, I suppose, and I did not give this a lot of thought, but you have a couple of individuals here with long training and experience as law enforcement or intelligence people in the Government, Hunt for what, 20 years, and Liddy for 7, or something of this kind, and it just did not—it never occurred to me to be a serious likelihood at that time.

Mr. DASH. Now, I think you have heard the testimony of Mr. Mitchell or maybe you are aware of the testimony of Mr. Mitchell, the former Attorney General, that he first became aware of the so-called Liddy operations, which included the Ellsberg break-in, on the 21st of June, and Mr. Mardian, Mr. LaRue debriefed him after

speaking to Mr. Liddy, and that he characterized this kind of operation, plus some others, as White House horrors. It was his view as presented to the committee that the potential for embarrassment to the reelection of the President was such, that he withheld this information from the President because he thought it might cause the failure of the President being reelected. You disagree with his evaluation.

Mr. EHRLICHMAN. Well, I certainly disagreed with it at the time. In other words, trying to reconstruct my frame of mind at the time, I considered the special unit's activities to be well within the President's inherent constitutional powers, and this particular episode, the break-in in California, likewise to have been within the President's inherent constitutional powers as spelled out in 18 U.S. Code 2511.

Mr. DASH. I think you have seen, once the information did become public, and the press dealing with it, the reaction generally by the public to the break-in, would you say that this was treated as a normal function of Government to authorize Mr. Hunt and Liddy to break into Mr. Ellsberg's psychiatrist's office. By the public, not as you saw it, but how the public reacted when they heard about it?

Mr. EHRLICHMAN. I think what is normal in the press these days is perhaps a difficult thing for any of us to define, particularly in this setting. Taken at the time either at the time of the Pentagon Papers episode, where you had these people stealing top secret documents and doing what they did with them, on the one hand, or taken at the time of the campaign, it depends on how many of the facts, how much of the facts, how much understanding could be sifted through the daily press. I think if it is clearly understood that the President has the constitutional power to prevent the betrayal of national security secrets, as I understand he does, and that is well understood by the American people, and an episode like that is seen in that context, there shouldn't be any problem.

Mr. DASH. Well then, you would not have had the same concern that Mr. Mitchell expressed that if he had told the President about it, one, the President would have lowered the boom and, in lowering the boom, he would have probably caused his own defeat for President of the United States?

Mr. EHRLICHMAN. In point of fact, on the first occasion when I did discuss this with the President, which was in March of this year, he expressed essentially the view that I have just stated, that this was an important, a vital national security inquiry, and that he considered it to be well within the Constitution, both obligation and function of the Presidency.

Mr. DASH. You say you first discussed this with the President in March of this year?

Mr. EHRLICHMAN. That is the first I can recall discussing it with him.

Mr. DASH. Well, what was the purpose of the President's statement of May 22, when he said that he instructed you and Mr. Haldeman to take steps to prevent the fruits of the special investigative unit from becoming known during the investigation of the Watergate as early as June?

Mr. EHRLICHMAN. Well, that is quite another subject, Mr. Dash, and that relates to some of the subject matters that I am at this point not able to talk to the committee about, which the President has im-

pressed with the highest secrecy classification and which he feels is very vital to the national security of the country.

Now, in furtherance of that, he has had me communicate his concerns about that to a number of people and he, in turn, has personally communicated his decision in that regard to a number of people in the executive branch.

Mr. DASH. I am not trying to probe into any other secrets, but certainly at the time in June of 1972, right after the break-in, you were aware of, and I take it, he was aware of the break-in?

Mr. EHRLICHMAN. The break-in?

Mr. DASH. Yes.

Mr. EHRLICHMAN. Which break-in?

Mr. DASH. The Ellsberg break-in.

Mr. EHRLICHMAN. I cannot speak for the President on that. I can only say that I was aware of it.

Mr. DASH. Well, did not the President in a statement indicate that certain acts were taken by properly motivated people, that he would not authorize but that he had instructed Mr. Haldeman and Mr. Ehrlichman to see to it that none of this, which he thought were taken in the guise of national security, should be investigated into by the FBI?

Mr. EHRLICHMAN. Well, I took that instruction from the President to relate to a number of investigations which the special unit either supervised or engaged in in one way or another over a period of months, spanning 6, 8, 9 months.

Mr. DASH. But you included the Ellsberg break-in in that?

Mr. EHRLICHMAN. I included the whole Pentagon Papers episode in that.

Mr. DASH. All right. So it was your understanding you were under instructions to see to it that the FBI investigation did not get into this, or did not uncover the Ellsberg break-in?

Mr. EHRLICHMAN. No, no. The Justice Department already had the information about the Ellsberg break-in.

Mr. DASH. When?

Mr. EHRLICHMAN. I cannot say when. John Dean told me that Henry Petersen had the information and the photographs and the whole business. Oh, I would guess a year or more ago.

Mr. DASH. A year or more ago?

Mr. EHRLICHMAN. Yes, sir.

Mr. DASH. And actually, the prosecutors did not learn about this from Mr. Dean when he went to the prosecutors?

Mr. EHRLICHMAN. No. Mr. Dean told me that, as I say, about a year ago. Last November he told Mr. Krogh the same thing, told him that both Mr. Silbert and Mr. Petersen had this information and the photographs.

Mr. DASH. And when did Mr. Petersen tell you this?

Mr. EHRLICHMAN. I have never discussed this with Mr. Petersen.

Mr. DASH. Did you not say Mr. Petersen told you this?

Mr. EHRLICHMAN. No, Mr. Dean told me this.

Senator ERVIN. The committee will stand in recess until 2 o'clock.

[Whereupon, at 12:05 p.m., the hearing was recessed, to reconvene at 2 p.m., this same day.]

## AFTERNOON SESSION, TUESDAY, JULY 24, 1973

Senator ERVIN. The committee will come to order.

Mr. DASH. Mr. Ehrlichman, prior to the luncheon recess you stated that in your opinion, the entry into the Ellsberg psychiatrist's office was legal because of national security reasons. I think that was your testimony.

Mr. EHRLICHMAN. Yes.

Mr. DASH. Have you always maintained that position?

Mr. EHRLICHMAN. Well, I do not know—

Mr. DASH. When I say always, I am not going back into eons of time.

Mr. EHRLICHMAN. I do not know that I have ever been asked to maintain it one way or the other. I have had a—I had an awareness of the President's constitutional powers and capacity.

Mr. DASH. Well, do you recall when we had our first interview in my office, and we discussed this issue, you expressed shock that such a thing had occurred, and indicated that you had informed Mr. Young or Mr. Krogh to see that this thing should not happen again but you did not take any action such as ordering the firing of these people because of the general sensitive issues that were involved. Do you recall that?

Mr. EHRLICHMAN. Well, that is not on the ground of illegality, Mr. Dash. I do not think you asked me at that time whether—what my legal opinion was, for whatever it is worth. What you were asking me was what I did, and that is what I did.

Mr. DASH. Well, if it was legal you would ordinarily have approved it, would you not?

Mr. EHRLICHMAN. Well, no, the thing that troubled me about it was that it was totally unanticipated.

Mr. DASH. Totally what?

Mr. EHRLICHMAN. Unanticipated by me, unauthorized by me.

Mr. DASH. Who was it authorized by?

Mr. EHRLICHMAN. Well, I am under the impression that it was authorized by Mr. Krogh. I say under the impression, that has been my consistent impression, but it is not based on any personal knowledge.

Mr. DASH. Well, now, as a matter of fact, Mr. Ehrlichman, did you not personally approve in advance a covert entry into the Ellsberg psychiatrist's office for the purpose of gaining access to the psychoanalyst's reports?

Mr. EHRLICHMAN. A covert entry?

Mr. DASH. Yes.

Mr. EHRLICHMAN. I approved a covert investigation. Now, if a covert entry means a breaking and entering, the answer to your question is, "No."

Mr. DASH. Well, let me read to you a memorandum, and then I will have it shown to you—would someone bring to Mr. Ehrlichman and his counsel a copy of a memorandum and also have it distributed to members of the committee? The memorandum is dated August 11, 1971, and it is a memorandum to you from Bud Krogh and David

Young, "Subject: Pentagon Papers Project—status report as of August 11, 1971."

I think the relevant information is in paragraph 2 rather than the progress report of paragraph 1. Let me just read paragraph 2.

We have received the CIA preliminary psychological study (copy attached at Tab A) which I must say I am disappointed in and consider very superficial. We will meet tomorrow with the head psychiatrist, Mr. Bernard Malloy, to impress upon him the detail and depth that we expect. We will also make available to him here some of the other information we have received from the FBI on Ellsberg.

Now, more significant:

In this connection we would recommend that a covert operation be undertaken to examine all the medical files still held by Ellsberg's psychoanalyst covering the 2-year period in which he was undergoing analysis.

And there is a provision here for approve, disapprove. There is an "E," which I take it you would recognize as your "E," and in handwriting which I would ask if it is your handwriting, the approval and the handwriting is: "If done under your assurance that it is not traceable."

Mr. EHRLICHMAN. That is correct.

Mr. DASH. Now, how would you interpret in this connection your assistance recommending to you in this connection, "We would recommend that a covert operation be undertaken to examine all medical files still held by Ellsberg's psychoanalyst covering the 2-year period in which he was undergoing analysis," and their recommendation taking place some time prior to the entry and approved by you?

Mr. EHRLICHMAN. Well, no interpretation necessary, Mr. Dash. This was in the setting of a previous conversation in which it was contemplated that these two men would go to the coast to do this investigation as the President's statement of May 22 says.

The effort here was to find out everything that could be found out about the people and the circumstances surrounding Ellsberg in all respects.

Now, whether a psychiatric profile, as such helps an investigation or in that situation, is something that the experts would have to tell you. It is something that I certainly cannot second-guess about. But the point here is that the investigation was already authorized and was going to go forward. Now, covert, in its literal meaning, and in its everyday meaning, is simply that it is a covered operation; that is to say, you do not identify yourself as being an investigator from the separate committee or—

Mr. DASH. Would it cover this, Mr. Ehrlichman, so at least we agree on terms—

Mr. EHRLICHMAN. Do you want to hear the rest of it?

Mr. DASH. I am sorry, I didn't want to interrupt you.

Mr. EHRLICHMAN. Thank you.

My concern, and the reason that I certainly acquiesced in the use of the term "cover" here, was that I was not keen on the concept of the White House having investigators in the field and known to be in the field, and I just don't think from a public standpoint, from a public relations standpoint, from a public policy standpoint, that that is a desirable situation, and I was not anxious to have anybody go in and flash a White House pass, credentials, and say "I am from the White House and I want this or that and I want to ask questions."

That is the sense in which I conceived, at least, of this investigation as being a covert investigation, and that is the sense in which I endorsed on here what I did in my hand.

Now, if you are asking me whether this means that I had in my contemplation that there was going to be a breaking and entering, I certainly did not. I heard a remark by a member of the committee to the effect that there are only two ways that one can see a medical file, and that is either to get the doctor to violate his oath or to break or enter. Well, I know that is not so, and I imagine those of you who have been in private practice well recognize there are a lot of perfectly legal ways that medical information is leaked, if you please, and when I saw this that is the thing that occurred to me, that by one way or another this information could be adduced by an investigator who was trained and who knew what he was looking for.

Mr. DASH. All right. Let me follow that up a bit. After this memorandum, do you recall that Mr. Young and Mr. Krogh then authorized Mr. Hunt and Liddy to go out to California?

Mr. EHRLICHMAN. Do I recall that? No, I don't.

Mr. DASH. And that they went out to California for a feasibility test to see whether or not they could undertake a covert act, and I am not saying breaking and entering?

Mr. EHRLICHMAN. No, my recollection is that that trip west had been authorized before this.

Mr. DASH. What was the purpose of the trip?

Mr. EHRLICHMAN. As I have said before, it was to find out everything possible about Ellsberg, his associates, his methods, everything surrounding him. This business of the material for the psychiatric profile, so far as I was concerned, was an add-on. As a matter of fact, I wasn't even sure until I went back and refreshed my recollection by looking at this document in the middle of June of this year where this all came in sequence and when I had been asked, perhaps even when I talked with the committee staff, but I recall distinctly when I testified before the grand jury, I was asked which came first, the psychiatric profile draft or the trip, and what the order, and I could not recall.

Mr. DASH. Well, do you know what Mr. Hunt and Mr. Liddy did when they went out on a trip for the feasibility?

Mr. EHRLICHMAN. I didn't even know there were two trips, as a matter of fact, until I was told in the rather recent past.

Mr. DASH. Now, would your understanding of covert operation be that, not a breaking and entering, but being let in by impersonating themselves to be somebody else into the building. Isn't that a covert operation?

Mr. EHRLICHMAN. I suppose that phrase could include that. It could include a lot of things.

Mr. DASH. Yes and, therefore, I don't think we have to quarrel about whether you approved a break-in, an entry, or even what you might consider to be a common-law burglary. What I am now saying is that the language here is not covert investigation, but a cover operation being undertaken to examine all medical files.

Now, the medical files, I take it, were in the possession of Dr. Ellsberg's psychoanalyst, were they not?

Mr. EHRLICHMAN. I don't know.

Mr. DASH. I take it that is where they should be.

Mr. EHRLICHMAN. Well, I don't know that or whether they would be in a medical record center or in a clinic or where, and in point of fact, as you know, Mr. Dash—

Mr. DASH. I think the memo is pretty clear.

Mr. EHRLICHMAN. Excuse me. In point of fact when they went in there, they didn't find it.

Mr. DASH. Yes, but read the memo again, Mr. Ehrlichman. The memo says, "Examine all the medical files still held by Ellsberg's psychoanalyst covering the 2-year period."

Mr. EHRLICHMAN. Yes.

Mr. DASH. I think a clear reading of that is that they are in his possession.

Mr. EHRLICHMAN. Again I don't mean to quibble with you. The words here are not my words. They are the words of the writers of the memo. The thing that was imparted to me by the word "covert" was that these people would not identify themselves as investigators of the White House or anything of this kind, and that their identities would not be known to the people that they were interrogating.

Mr. DASH. All right. So they would not identify themselves as representatives of the White House but through some identification they might get access to the building.

Mr. EHRLICHMAN. Not necessarily. They might have gotten access through another doctor, through a nurse. There are all kinds of ways that one could get this information.

Mr. DASH. But it would include getting access to the building, would it not?

Mr. EHRLICHMAN. Not inevitably.

Mr. DASH. I didn't say inevitably, it would include it.

Mr. EHRLICHMAN. As one of a number of possibilities.

Mr. DASH. And also, say, by some covert activity, but not identify themselves as members of the White House staff, of getting access to the office.

Would it not include that as one of the alternatives that they could take?

Mr. EHRLICHMAN. Well, you are asking me to define phrases in somebody else's memo.

Mr. DASH. Well, you approved this memo. You didn't put any other conditions on it, did you?

Mr. EHRLICHMAN. No, I am trying to tell you what I thought I was approving.

Mr. DASH. Well, those who read it undertook to also interpret what you thought you were approving. By the way, did Mr. Young and Mr. Krogh call you while you were in Cape Cod after Mr. Hunt and Mr. Liddy came back, and tell you that they had established that it was feasible that they could get access, and that you said, "OK., go ahead and let them do it."

Do you recall that call that Mr. Krogh and Mr. Young made to you in Cape Cod?

Mr. EHRLICHMAN. No. I don't—as a matter of fact, I don't recall any business calls while I was up there at all.

Mr. DASH. Would you be surprised if I told you that Mr. Young would so testify?

Mr. EHRLICHMAN. Yes, I would.

Mr. DASH. That Mr. Liddy and Mr. Hunt did in fact go out to carry out the feasibility study, did engage in what they considered to be a covert activity, not a break-in, and through a cleaning lady gain access to the building and saw they could gain access in similar way to the office, did return and that on the basis of that Mr. Young and Mr. Krogh got on the phone with you while you were in Cap Cod and told you that they were able, therefore, to prove that was feasible, and you said, "OK" when you were assured that Mr. Hunt and Mr. Liddy would not themselves be involved.

Do you recall that?

Mr. EHRLICHMAN. Well, now that is about how many questions all in one?

Mr. DASH. I am just giving you a set of facts.

Mr. EHRLICHMAN. Yes, and I don't recall any such set of facts.

Mr. DASH. All right. Now—

Mr. EHRLICHMAN. I am stopped at the phone call, as a matter of fact, because while I was up there, I am quite sure I didn't take any calls from the office.

Mr. DASH. I think you have already indicated that you had a discussion with them before the memo was sent, and before it was approved, in which they discussed the possibility of getting access to the files of the psychoanalyst.

Mr. EHRLICHMAN. No, no, you misunderstood me. The discussion that I had with them related to the necessity of putting investigators out on the coast to investigate Ellsberg over and beyond the FBI effort.

Mr. DASH. You do not recall that some time in July or August, that you had a discussion with Mr. Krogh and Mr. Young in which this specific question came up?

Mr. EHRLICHMAN. Which specific question?

Mr. DASH. I am finishing my question. As to getting the psychoanalyst's files on Ellsberg?

Mr. EHRLICHMAN. In July or August?

Mr. DASH. Yes, prior to the date of the memo of August 11? This was a discussion that you had with Mr. Young and Mr. Krogh?

Mr. EHRLICHMAN. I do not recall it. I cannot rule it out. It may have been along with the memorandum. I just do not know.

Mr. DASH. You would not be surprised if Mr. Young were to so testify here under oath that he had such a specific discussion with you?

Mr. EHRLICHMAN. I would be surprised? No, I rather imagine that this memo arrived in Mr. Young's hand, or Mr. Krogh's hand, or perhaps from the both of them, because that was ordinarily the way these status reports would come, and we would sit down and use those as an agenda.

Mr. DASH. The question I put to you was not the memo, but prior to the drafting of the memo, which came to you first for your approval, that there was a discussion that you had with Mr. Krogh and Mr. Young about doing this very thing through a covert method of getting access to the psychoanalyst's files of Mr. Ellsberg?

Mr. EHRLICHMAN. No, I do not recall such a conversation. It would by my guess that if we had had such a conversation, that would have made the memo superfluous.



Mr. DASH. Would it?

Mr. EHRLICHMAN. That would be my assumption, yes.

Mr. DASH. Would it not be in preparation for the drafting of such a memo to get your specific approval in writing?

Mr. EHRLICHMAN. No, that is not ordinarily the way we did business. The only time I would be asked for something like this is if they had trouble getting in to see me, that they wanted to set up an agenda so that when we did get together, we hit a number of topics, and so on.

Mr. DASH. Now, do you recall that on March 27, Mr. Young had a meeting with you at a time when he was leaving the White House?

Mr. EHRLICHMAN. We had a meeting around that time.

Mr. DASH. March 27, 1973. And do you recall that you asked him to pull together a number of the papers that the special investigative unit had kept, and that he did? Do you recall that?

Mr. EHRLICHMAN. I think I asked him to put all of them together, yes.

Mr. DASH. He brought them to you in a bag?

Mr. EHRLICHMAN. In a bag? No, I do not—I think my request to him was that since he was leaving, all of the special unit's documentation should be gathered in one place so that it could be transferred to the President's file.

Mr. DASH. But you reviewed them before they were transferred?

Mr. EHRLICHMAN. No, there were drawers of them.

Mr. DASH. Do you recall receiving a number of papers from Mr. Young and then returning them minus this memorandum and another, which I will ask you about?

Mr. EHRLICHMAN. No. The receipt of documents, as I recall, was in Krogh's—this document has been in my files and I saw it there the other day.

Mr. DASH. I will just put the question to you so you can answer it. Do you know if Mr. Young raised the question concerning the memorandum and that you said it was too sensitive a memorandum and that you had retained it?

Mr. EHRLICHMAN. No. No. First, I know I have had in my files, actually unknown to me, this and a number of other documents relating to the Ellsberg matter. I do not know for how long, and I do not know from what source. I do know that at the time that Mr. Young was leaving, we asked that he pull together everything, and I believe he turned all of his documents over to Todd Holland in my office.

Mr. DASH. Do you recall telling Mr. Young, in that meeting on the 27th, that you suspected that Hunt may be going public in California on this operation, and that Mr. Young was deeply concerned that this may be possible?

Mr. EHRLICHMAN. No, the—well, what I told him was not on the 27th. As I recall, it was earlier than that. I had an appointment with Mr. Young shortly after Mr. Dean came in to say that the White House was being blackmailed by Hunt. And I reviewed with both Krogh and Young—because this was all quite dim in my recollection—what it was that Mr. Hunt might say, what the national security aspects of this were again, and went over the whole ground with them in the light of the blackmail attempt. Now, that must have been on the 20th or the 21st or not later than the 22d of March.

Mr. DASH. Well, do you recall telling Mr. Young that Mr. Krogh was going to be taking the responsibility for that and that Mr. Young reminded you that maybe Mr. Hunt or some others made some copies of this memorandum? And that you indicated that, well, if that was so, the position to take would be that it would be a national security matter and you would button up?

Mr. EHRLICHMAN. No. The conversation, basically, was for me to inquire of Mr. Young to get as much information as I could about what it was that Mr. Hunt was, in effect, threatening to say. And he went into this in considerable detail with me at that time—that is to say, the general subject matter.

Mr. DASH. Now, did you also indicate to him that the President knew about this and had fully authorized it or had felt that it was a perfectly legal matter at that time?

Mr. EHRLICHMAN. If—I may have. I well may have, because in that period of time, 20, 21, 22 March, somewhere in there, I did have a conversation with the President about this.

Mr. DASH. By the way, did you also receive a memorandum suggesting that there would be a congressional investigation about the Ellsberg affair?

Mr. EHRLICHMAN. I have had a memorandum in my file from Mr. Colson on that subject. I do not know if that is the one to which you refer.

Mr. DASH. Did you ever receive one from Mr. Young?

Mr. EHRLICHMAN. About a congressional investigation?

Mr. DASH. Yes, suggesting that Mr. Mardian and others might be involved in this.

Mr. EHRLICHMAN. I may have, but that goes way, way back in time. I have not seen anything like that.

Mr. DASH. Dated August 26, 1972.

Mr. EHRLICHMAN. I well may have.

Mr. DASH. Do you recall having received this memorandum?

Mr. EHRLICHMAN. It has my initial on it. I do not have a present recollection of the document.

Mr. DASH. Do you also note that there is an attached memorandum on the same date for Mr. Colson from you, Mr. Ehrlichman, subject, "Hunt/Liddy special project."

And I quote:

On the assumption that the proposed undertaking by Hunt and Liddy would be carried out and would be successful, I would appreciate receiving from you by next Wednesday a game plan on how and when you believe the materials should be used.

Do you recall that?

Mr. EHRLICHMAN. Yes, I have seen that recently on going back into the files.

Mr. DASH. Now, I just have one last question. There are others, Mr. Ehrlichman, that I would like to get into, but I have taken sufficient time and I will have a chance to question you later. But you also indicated this morning when I put the question to you whether you were concerned whether or not the so-called entry, whether you call it the Ellsberg break-in in this particular case, it was a break-in, the Ellsberg break-in, would become known publicly, whether that would be em-

barrassing to the campaign. I think you responded that so far as you understood, and I think Mr. Dean, you said, told you that Mr. Petersen or the prosecutors already knew this and knew this for some time. Is that correct?

Mr. EHRLICHMAN. Mr. Dean and Mr. Krogh also told me that Mr. Dean had told them that.

Mr. DASH. I think what you indicated is that they had some pictures?

Mr. EHRLICHMAN. Yes.

Mr. DASH. But was it your understanding that they knew what those pictures meant? That those pictures really related to break-in of the Ellsberg psychiatrist's office?

Mr. EHRLICHMAN. Yes, what I was told was that there were photographs of the interior of the office, which showed that a ransacking or an entry or a search had taken place.

Mr. DASH. Now, you knew at the time, certainly during 1972 and from the summer of 1972 on, that there was a trial in process with Mr. Ellsberg as a defendant and that if, in fact, the prosecutors had this information, there would have been some responsibility or duty to turn this over to the judge, and in fact, the way it was done recently with the support of the President.

Mr. EHRLICHMAN. Did I know that?

Mr. DASH. Yes.

Mr. EHRLICHMAN. No, I did not know that.

Mr. DASH. Would you expect that if they had this earlier, they would have turned it over earlier?

Mr. EHRLICHMAN. I did not have any reason to expect that.

Mr. DASH. Let me show you another memorandum that we just have received, dated April 16, 1973, from Mr. Silbert to Mr. Petersen.

I am sorry, we will make a copy right away. I will have this shown to you as soon as I read it.

This is to inform you that on Sunday, April 15, 1973, I received information that on a date unspecified, Gordon Liddy and Howard Hunt burglarized the offices of a psychiatrist of Daniel Ellsberg to obtain the psychiatrist's files relating to Ellsberg. The source of the information did not know whether the files had any material information or whether any of the information or even the fact of the burglary had been communicated to anyone associated with the prosecution.

The accompanying memos take it all the way to the prosecutor and back, with Mr. Petersen indicating that these should be shown to Judge Byrne, who was presiding at the trial. Were you aware of this memorandum that Mr. Silbert sent to Mr. Petersen in which he indicated that they had learned this on Sunday, April 15, 1973?

Mr. EHRLICHMAN. Yes, I have seen that.

Mr. DASH. And are you also aware of President Nixon's statement on May 22, when he stated:

I consider it my responsibility to see that the Watergate investigation did not impinge adversely upon national security areas. For example, on April 18, 1973, when I learned that Mr. Hunt, a former member of the Special Investigations Unit at the White House, was to be questioned by the U.S. attorney, I directed Assistant Attorney General Petersen to pursue every issue involving Watergate, but to confine his investigation to Watergate and related matters and to stay out of national security matters. Subsequently, on April 25, 1973, Attorney General Kleindienst informed me that because the Government had clear evidence that Mr. Hunt was involved in the break-in of the office of the psychiatrist who had treated Mr. Ellsberg, he, the Attorney General, believed that despite the fact that no evidence had been obtained from Hunt's agent, a

report should nevertheless be made to the court trying the *Ellsberg* case. I concurred and directed that the information be transmitted to Judge Byrne immediately.

You, of course, recall the President making that statement?

Mr. EHRLICHMAN. Yes, I do.

Mr. DASH. Now, it would be quite obvious that if Mr. Petersen or the Department of Justice had information earlier, they certainly would not have waited until April 25, 1973, to inform the President and get the President's permission to inform the court. Do you agree with that?

Mr. EHRLICHMAN. No, I don't.

Mr. DASH. In other words, it would be your position that they held this back as long as they could—

Mr. EHRLICHMAN. Well, if Mr. Dean told me the truth and told Mr. Krogh the truth, then obviously, that is what happened. I can very clearly recall Mr. Dean coming into my office and saying, "you will never guess the bounce that this thing has taken now." He said, "Petersen has got the pictures," and the way he described it to me, when Hunt went in there or was around there, he took pictures and he left the film in the camera when he returned the camera to the CIA and the film was developed and then sent over to the Justice Department. And here was this address and the doctor's name and Liddy standing in front of the place and the ransacked business, and we both just shook our heads over this.

As it turns out later, that isn't quite what happened. The CIA, out of, I guess, sort of traditional caution, made copies of all of the films that Hunt turned over to them to get a free developing and printing job, so they took these copies and sent them over to the Justice Department, apparently.

But in any event, I can't vouch for this on my own say-so. I can only tell you what Dean told me and in those circumstances, and then, in comparing notes with Krogh, he says that when Dean was counseling him on his testimony at the time he was coming before the Senate for confirmation with the Department of Transportation, Dean told him that not only did Petersen have this but that Silbert had it as well.

Now, here again, it's hearsay and it's only as good as the testimony or reliability of Mr. Dean, and I would be the last one in the world to vouch for that at this point.

Mr. DASH. By the way, did you ask Mr. Dean to get that film back from the CIA?

Mr. EHRLICHMAN. No.

Mr. DASH. Mr. Chairman, I would like to have marked as exhibits and introduced into evidence the memorandum to Mr. Ehrlichman from Mr. Krogh and Mr. Young dated August 11, 1971, and the memorandum to Mr. Ehrlichman from David Young, dated August 26, 1971, as well as the memorandum just submitted to Mr. Ehrlichman from Mr. Silbert and Mr. Petersen.

Senator ERVIN. I understand they have all been identified by the witness.

Mr. DASH. Yes.

Mr. EHRLICHMAN. No, sir.

Mr. DASH. I think he has identified the first one, August 11, and part of the second one.

I think you recognized that.

Mr. EHRLICHMAN. I recall the last page of the second. I think that is my chopmark on the rest of it, although I don't have any present recollection of it.

The third one, Mr. Silbert's internal memorandum in the Justice Department, has been shown to me, but I can't vouch for it.

Mr. ERVIN. I will admit the first two papers as exhibits and the reporter will number them appropriately as such.

[The documents referred to were marked exhibits Nos. 90 and 91.\*]

Senator ERVIN. The third I will have marked for identification, but will not be admitted at this time.

[The document referred to was marked exhibit No. 92 for identification only and not for publication.]

Mr. DASH. I do have other questions that I will not ask at this point. I have no further questions at the present time.

Senator ERVIN. Mr. Thompson.

Mr. THOMPSON. Mr. Chairman, I do have one or two lines that I would like to pursue, and then with the chairman's permission, perhaps after the members of the committee have questioned the witness, I'll return to other lines.

Mr. Ehrlichman, I understand that as of June 18, you knew that Mr. Hunt and Mr. Liddy had in fact broken into the DNC or allegedly so and also that they were members of the White House staff. Is that correct?

Mr. EHRLICHMAN. No, I don't believe so, Mr. Thompson. I think that sometime on the 19th, Mr. Dean told me about Liddy's involvement. The only connection that I had with regard to Hunt was this call from the Secret Service that said that his name had been in the possession of one of the people caught in the Democratic headquarters and that the card or the paper or whatever it was, said "White House" on it.

Now, it wasn't very many days after that before the link was made, I guess, but as of that day, I don't think I knew that.

Mr. THOMPSON. Mr. Dean has testified that Liddy also told him that Magruder was involved in some way, that Magruder pushed him. Also, Mitchell and LaRue and Mardian testified that they got essentially the same information from Liddy on June 21, I believe. Was any of this information imparted to you in June of 1972 concerning Mr. Magruder?

Mr. EHRLICHMAN. I can't say, Mr. Thompson, whether it was or not. There came a time when there was a feeling that, at least on my part, based on what the—on what Mr. Dean was telling me about the unfolding of this thing, that Mr. Magruder may have had some involvement, and that culminated in a meeting with the Attorney General at the end of July, on the 31st of July, where Magruder was specifically discussed. But just where in there I acquired information, I can't tell you.

Mr. THOMPSON. When you acquired this information, did you discuss this information with the President?

Mr. EHRLICHMAN. Well, as I say, I can't say in the interim. I do recall discussing with the President the comments of the Attorney General and Mr. Dean arising out of our meeting on July 31.

\*See pp. 2643 and 2646, respectively.

Mr. THOMPSON. Do you recall approximately when this conversation took place?

Mr. EHRLICHMAN. It would have been within a day or two after that. It would have been in the first week in August.

Mr. THOMPSON. First week in August—

Mr. EHRLICHMAN. Yes, sir.

Mr. THOMPSON. Was the first occasion?

Mr. EHRLICHMAN. I cannot say the first occasion, but it is the one that I have a recollection of.

Mr. THOMPSON. Mr. Ehrlichman, let me read to you the President's statement of May 22, again which has been previously referred to, and give you a quotation from that statement. The President says:

I wanted justice done with regard to Watergate but in the scale of national priorities with which I had to deal, and not at that time having any idea of the extent of political abuse which Watergate reflected, I also had to be deeply concerned with enduring, insuring that neither covert operations of the CIA nor the operations of the special investigations unit should be compromised.

Mr. EHRLICHMAN. Excuse me, Mr. Thompson, could you tell me where you are reading from? I cannot quite hear you.

Mr. THOMPSON. That is on page 5 of the President's statement of May 22.

Mr. EHRLICHMAN. Thank you.

Mr. THOMPSON. It is the last full paragraph.

Mr. EHRLICHMAN. Right.

Mr. THOMPSON. All right.

Therefore, I instructed Mr. Haldeman and Mr. Ehrlichman to insure that the investigation of the break-in not expose either an unrelated covert operation of the CIA or the activities of the White House investigations unit, and to see that this was personally coordinated between General Walters, Deputy Director of the CIA. Mr. Gray of the FBI. It certainly was not my intent or my wish that the investigation of the Watergate break-in or of related acts be impeded in any way.

Is that correct? Were you in fact given those instructions?

Mr. EHRLICHMAN. We were asked to meet with the CIA people in the month of June, and Mr. Haldeman and I did that. At a point in time, I think some months in advance of the Watergate break-in, the President had made it very clear to me that the whole special unit activity was, he felt, impressed with the highest level of security classification. It simply was not to be talked about and I had passed that along to Young and Krogh and others. But I do not recall ever talking to either the CIA people or Mr. Gray about investigations which might lead to the special unit as such.

Mr. THOMPSON. Prior to the break-in?

Mr. EHRLICHMAN. Either prior or subsequent, for that matter.

Mr. THOMPSON. You talked on June 23—you had a discussion with Mr. Helms and Mr. Walters, did you not?

Mr. EHRLICHMAN. But it did not relate to the activities of the special unit with regard to the Pentagon Papers or anything like that.

Mr. THOMPSON. But it related to CIA activities?

Mr. EHRLICHMAN. Yes, sir.

Mr. THOMPSON. Of course, the President refers in his statement to both CIA activities.

Mr. EHRLICHMAN. And, as I say, I can say that we had the one meeting with the CIA on the 1st. I do not recall any conversations or ef-

forts to protect the activities of the special unit from the FBI's investigation.

Mr. THOMPSON. But you did have a conversation, I assume, with the President after the break-in concerning the covert activities of the CIA and the special investigations unit.

Mr. EHRLICHMAN. Well, the sequence of events was that Mr. Halde-  
man told me that the President wanted me to sit in a meeting which I then did.

Mr. THOMPSON. The June 23 meeting?

Mr. EHRLICHMAN. Yes, sir, cold without having talked with the President about it. It was not until the 6th or 7th of July that I really had a conversation with the President about that subject, and had then a full feeling for what his concerns were.

Mr. THOMPSON. Mr. Ehrlichman, the logs which the White House has supplied the committee reflecting your meetings with the President show a meeting on June 20.

"The President met with Mr. Ehrlichman in the President's EOB office." A meeting evidently with the President where no one else attended, a meeting of 55 minutes. Of course, this is 3 days after the break-in and 3 days prior to your conversation or your attendance where a conversation took place with Helms, Walters, and Haldeman, I believe.

My question is what was discussed in this 55 minute conversation 3 days subsequent to the break-in?

Mr. EHRLICHMAN. That was, according to my notes of the meeting, was principally taken up with two subjects, welfare reform—I was just about to come up to talk with Members of Congress about H.R. 1, which was then pending; and the other subject was the Bloomfield amendment which related to busing.

Mr. THOMPSON. The activity of the special investigations unit was not discussed at all at that time?

Mr. EHRLICHMAN. No, sir.

Mr. THOMPSON. Of course, at that time you realize that a former member of the special investigations unit was implicated in the Watergate break-in, did you not?

Mr. EHRLICHMAN. Meaning Liddy?

Mr. THOMPSON. Yes.

Mr. EHRLICHMAN. Right.

Mr. THOMPSON. And the President did look to you for supervision of the special investigations unit, did he not?

Mr. EHRLICHMAN. Well, special investigations unit, Mr. Thompson only had a life of about 60 to 90 days. It was formed on the 24th of July 1971. By the 20th of September, the President had sufficiently stimulated Mr. Hoover and the Attorney General had sufficiently stimulated the Justice Department that they were very much back in business and the President and the Attorney General had a meeting and pretty well turned the whole Pentagon Papers business back to the Justice Department. There was one investigation that carried on into the end of the year, and by Christmastime or the first of the year, why incidentally, that one only involved one member of the unit, the rest of them were out of business. So that all through the early part of 1972 and on down into the summer there was no special unit.

Mr. THOMPSON. But the problem that Hunt and Liddy presented to the President, I would assume, or presented to the administration, had nothing to do with the length of time that was served. I assume that the problem that they presented was the fact that they had worked in the White House, they had engaged in certain activities, perhaps knew about others and that might be exposed because of the Watergate situation?

Mr. EHRLICHMAN. I do not think anybody was thinking in those kinds of terms, Mr. Thompson. They were thinking in terms of here were some people who were in the White House, they are long gone from the White House, they have not worked here, but it is possible for people to impute to the White House some implication in this silly act by reason of their former employment there. I do not think anybody was thinking that these fellows knew their secrets or that there was any, that there was anything that they might say that would be harmful to the campaign of the President in those kinds of terms.

Mr. THOMPSON. All right. This problem you just related I assume, is the substance of the conversation you say you had with the President about July 6 or 7.

Mr. EHRLICHMAN. Well, July 6 or 7 is when we talked about the CIA, and when I got a feel for why it was that I had been asked to sit in this meeting that Mr. Haldeman and I had with Director Helms and General Walters.

Mr. THOMPSON. But when did the President instruct you to insure that the covert CIA activities were not exposed by the Watergate investigation? Was it during this conversation?

Mr. EHRLICHMAN. The instruction came to me secondhand, and it was not as crystal clear as you have just made it.

Mr. THOMPSON. Well, I am reading from the statement—

Mr. EHRLICHMAN. I am sorry.

Mr. THOMPSON [continuing]. Of the President.

Mr. EHRLICHMAN. I am sorry to disagree with the interpretation of the statement that you are giving, but the fact is that morning Mr. Haldeman said to me, "The President wants you to sit in a meeting."

Now, I did that. Mr. Haldeman led the meeting, imparted the President's message to the Director and to the Deputy Director, and I was very much an auditor at that meeting. I just sat and pretty much listened until there evolved from the meeting a—and it was not hard to figure out what the drift of it was—there evolved from the conversation a clear impression that there might be a problem, and so the conclusion of the meeting simply was that General Walters and Pat Gray at the FBI would sit down together and talk through what the problem might be.

Mr. THOMPSON. Were those the instructions which the President is referring to here?

Mr. EHRLICHMAN. Afterward, yes, afterward, I learned from the President that his concerns were as they are set out there in the statement, that dissociated, unrelated to the Watergate in any way, there might be CIA operations which would be uncovered, and you have to understand that right at this time we were experiencing massive leaks in the FBI, so that the fruits of the FBI investigation might very well be in your morning newspaper or in Time magazine more typically.



The concern here was that the FBI would come upon some information, bring it into the FBI files, and you would read it in your newspaper, and the CIA would be compromised. Now, that is what I have learned after the fact relating back to the meeting.

Mr. THOMPSON. All right, so from what you know the instructions related in the President's statement here would have to do with implied instructions, if you term it that way, that you got from attending a meeting of June 23, plus the President's later statement to you on July 6 or 7?

Mr. EHRLICHMAN. Right.

Mr. THOMPSON. Of course he states here "Within a few days I was advised there was a possibility of CIA involvement in some way" but he didn't talk directly to you about that until July 6 or 7?

Mr. EHRLICHMAN. I am not your best witness on that. He talked to Mr. Haldeman about that and I got things secondhand up to, as I say, the 6th or 7th of July is when we had a direct conversation.

Mr. THOMPSON. When did he advise you or when did he instruct you to insure that the activities of the special investigations unit were not exposed in the Watergate investigation?

Mr. EHRLICHMAN. I felt that there were standing instructions from about the first of 1972 on that. I don't recall a new set of specific instructions, and as I just testified, I am not aware of any conversations or any specific instructions as to Mr. Gray or anyone else to look out for this area or stay out of this area or anything of that kind. There were internal instructions. For instance, at a point in time Mr. Young's secretary was to be interviewed by the FBI, and Mr. Dean's office contacted her to make sure that she knew about the standing instructions that the special unit's activities were not to be disclosed.

Mr. THOMPSON. The President says here that within a few days he learned of possible CIA involvement and then he instructed you and Mr. Haldeman to make sure that the covert activities of the CIA and the activities of the special investigations unit were not exposed.

From what I understand you to say now with regard to the CIA involvement, you attended one meeting and you evidently didn't know what it was all about until you got into the conversation on June 22 with Helms and Walters and Haldeman. But you first discussed the CIA involvement on July 6 or 7 and you never did really receive any specific instructions to keep the special investigations unit's activities from being exposed?

Mr. EHRLICHMAN. Well, I did receive specific instructions but they predated Watergate by 5 or 6 months, and—

Mr. THOMPSON. I mean that would go without saying with regard to all internal activities of the White House, would it not, Mr. Ehrlichman?

Mr. EHRLICHMAN. But this didn't go without saying—this was very specific, very strong, very pointed.

Mr. THOMPSON. So you received instructions but it preceded the Watergate?

Mr. EHRLICHMAN. Yes, sir.

Mr. THOMPSON. But you felt in your mind after the Watergate break-in and after, say, July 6, 7, anyway that you did have instructions, however they came about, to insure that covert CIA operations and the plumbers operations unrelated to Watergate were not exposed?

Mr. EHRLICHMAN. No, no [conferring with counsel]. I think you have misunderstood me, Mr. Thompson.

We had a meeting with Mr. Helms and Mr. Walters—General Walters, excuse me. There were a series of conversations then as a result of that meeting between General Walters and Mr. Gray. The conclusion of those conversations came around July 6 or 7. The President then talked with Mr. Gray and his instructions to Mr. Gray were "In view of the CIA's conclusion that there was no danger of such exposure to go all out with an FBI investigation." And then he backed that up with instructions to me that I was to pass along to Mr. Gray, that Mr. Gray was to determine the scope of the investigation. So that by July 6 or 7—and I can probably pin that date down for you in just a second here—but the—well, I think it was the 8th, as a matter of fact—let's see, it was—no, excuse me the 6th, he saw Clark MacGregor the same day, it was Thursday the 6th. By that day the President had determined the matter in conversation with Mr. Gray, there was no CIA, either involvement or potential, for leak or exposure, and the President's instructions to Mr. Gray were "Let's have an all-out FBI investigation" and that is just what happened.

Mr. THOMPSON. So the matter had been resolved by July 6?

Mr. EHRLICHMAN. Yes, sir.

Mr. THOMPSON. You previously stated, I believe, that July 6 or 7 or 8 was the date on which the President instructed you to insure that—

Mr. EHRLICHMAN. I am sorry, it is the date I understood from our conversation what his concerns were. He gave me a very full explanation of why he had asked that we meet with Mr. Helms and General Walters back on in the first week, and his—he obviously had a separate source of information that he was acting on back at that time, to the effect that there might be CIA involvement or there might be CIA operations but somehow or another could be compromised by an unlimited FBI investigation, and really the purpose of that June meeting with Walters and Helms was, it was, to find out if there was anything like that in possibility.

The upshot of the meeting was, yes, maybe there was something like that in possibility, and so—

Mr. THOMPSON. So your previous statement, as I understand it, was incorrect and did I misunderstand you or are you withdrawing your previous statement to the effect that you received those instructions on July 6?

Mr. EHRLICHMAN. Well, I didn't receive any instructions. I received an explanation.

Mr. THOMPSON. Of what had already occurred?

Mr. EHRLICHMAN. Yes, sir.

Mr. THOMPSON. The point I am trying to get at is whether or not you received similar instructions with regard to the plumbers. You never did really receive any specific instructions from the President with regard to seeing that the CIA covert activity was not exposed?

Mr. EHRLICHMAN. I did through Mr. Haldeman in the sense of having this meeting in June. As far as the President sitting me down and saying, as he did incidentally in the case of the plumbers, sitting me down and saying, "I consider this vitally important, I don't want to hear about anybody talking about it," and so on and so forth, which happened, as I say, around the first of 1972 with regard to that, no,

I didn't personally get a direct order from the President with regard to that.

Mr. THOMPSON. You personally didn't get any direct orders from the President the day after the Watergate break-in with regard either to CIA covert activities or plumbers activities?

Mr. EHRLICHMAN. As we—

Mr. THOMPSON. To keep them from being uncovered.

Mr. EHRLICHMAN. As we come into the March 1973 period, yes, I did, because as a response to this March 20 blackmail attempt by Hunt the President renewed his strong feeling that this whole special unit activity was impressed with a national security characteristic of the highest order, and he had me renew his injunction at that period to several people.

Mr. THOMPSON. Let's discuss this June 23 meeting which you had with Helms, Walters, and Haldeman. You have explained your presence at the meeting I believe that Mr. Haldeman suggested that the President wanted you to attend. I assume you are also aware that Mr. Walters has given some public testimony with regard to what transpired at that meeting.

Would you tell us in fact, what in fact transpired at that particular meeting?

Mr. EHRLICHMAN. Well, as I recall, Mr. Haldeman explained that the meeting was held at the President's request, that it was because of the President's concern, as I have mentioned, that CIA activities either were involved in the Watergate, one, or two, some totally unrelated CIA activity might be exposed by the investigation of the Watergate.

Mr. THOMPSON. Could I stop you at that point a minute unless you would rather carry through, you just tell me and I will be glad for you to do so, but what caused Haldeman or the President so far as you know to believe that the CIA might possibly be involved?

Mr. EHRLICHMAN. Well, I became satisfied later. I did not know at the time, I became satisfied later, in this July 6 meeting that the President had a source of information on which he was relying that was apart from anything that he described to me. I never did know what his source of information was. But it was evident to me from the conviction with which he discussed this subject, that his concern was based on some source of information which he considered reliable.

Now, I went on—I should have gone on to say that Mr. Haldeman also explained to the three of us, Helms, Walters and me, that the President felt that he must order a full, complete, unlimited FBI investigation of the Watergate matter. That this had become already a serious political issue, and the only tenable political position for him to be in was to turn the FBI loose on this, and let them conduct any kind of an investigation that they could or should.

Now, Mr. Haldeman then explained the implications of that, which were obvious. If the CIA were involved in the Watergate then obviously that would be embarrassing, awkward and difficult for the CIA. Mr. Helms and General Walters assured us that that was not the case.

Then Mr. Haldeman said if there were any other CIA activity or operation, totally disassociated from Watergate, which an investigation of money or people, it being well known that some of these people who had been apprehended be on retainer to the CIA, and so forth, if

any of these circumstances led to a disclosure of CIA operations, disassociated from the Watergate, that, too, would be awkward.

It was there that we did not get the same kind of flat assurance that we had gotten in the first instance, and so rather than for us to probe that for dates and places and names, it was simply agreed that General Walters would make an early appointment with Pat Gray and sit down and talk with him about what the problem might be, and that is what was done.

The outcome of those talks, and I guess there were two or three of them, was simply that Walters and Gray agreed that there was no problem, and Gray then talked with the President on the phone, when the President was in San Clemente, I believe, on the 6th, and then the President, very shortly after that, told me about the telephone call, what his instructions to Gray had been, and then he explained to me what his concerns were about this rather nearly in the terms that I have just explained them to you.

Mr. THOMPSON. Did he say his concerns were that there was CIA involvement with regard to the Watergate break-in or there was unrelated CIA involvement which might be exposed?

Mr. EHRLICHMAN. Well, he said in the inception, in the beginning, that had been, both had been, his concern, because of the fact that some of these people who had been arrested had had CIA connections in the past, and the information that had to come to him persuaded him there was at least a potential problem.

Mr. THOMPSON. Did Haldeman ever tell Walters or Helms to go to Gray and tell him to in effect "hold off, slow down with regard to the Mexican investigation because of CIA involvement?"

Mr. EHRLICHMAN. No. My recollection—no, the answer to that is naturally "no."

My recollection is that the Mexican investigation was one of the things that was discussed and as to which Mr. Helms and General Walters could not give us a categorical assurance that FBI investigation wouldn't create problems for them so that it was simply noticed as one of the kinds of problems that might arise in which General Walters and the Director of the FBI ought to compare notes on.

Mr. THOMPSON. So in other words, you were merely presenting it to him, according to your testimony, to find out whether or not there would be CIA embarrassment possibly, and it would be for them to work the matter out, report back, so the matter could be resolved.

Mr. EHRLICHMAN. Not even report back in that sense, reporting back to us. As a matter of fact, we said at that point, look, we are out of this; we just wanted to crystalize this, wanted to get you together with the FBI. The White House contact on this would be John Dean, who was the fellow following this entire matter. So in effect, we turned General Walters and Mr. Helms over to Dean for any future contacts that they might have on it.

Mr. THOMPSON. You would not know whether or not John Dean on June 7 went to Walters and told him that it would be good if the CIA could help raise bail money, could help raise some salary money, that the witnesses were wallowing and could be in trouble?

Mr. EHRLICHMAN. I read that in the newspaper and it really surprised me when I read it. So I wondered at the origin of this until I heard Mr. Dean's testimony, which was that he had been asked by Mr.

Mitchell to do this. I had in effect set this up without knowing it by telling Walters that Dean was his White House contact from that day forward. But I did not know about these conversations.

Mr. THOMPSON. Dean did not report back to you?

Mr. EHRLICHMAN. Not about that; no, sir.

Mr. THOMPSON. Did you have occasion to call Mr. Gray to call off a meeting which he and Walters scheduled on June 28, to tell him that the meeting would no longer be necessary, that matters had been worked out some way?

Mr. EHRLICHMAN. Well, I didn't realize that I had canceled it. My strong concern about that meeting was that it was going to include some staff members from the FBI and as I say, we were experiencing these leak problems and right at that particular time, one of the people who would have been included in that meeting was under very strong suspicion as being the source of that leak. We had had independent information which we were talking to Mr. Kleindienst about, about that specific individual and it appeared that this whole thing was going to include him. So that was the reason for my call.

Mr. THOMPSON. Did you ask precisely who would be in attendance at the meeting?

Mr. EHRLICHMAN. Yes. Well, I don't know as I asked him. I think I was told. As a matter of fact, I think Mr. Dean told me.

Mr. THOMPSON. Did you tell Mr. Gray of your suspicions or concerns about the individual?

Mr. EHRLICHMAN. Not at that time.

Mr. THOMPSON. Why?

Mr. EHRLICHMAN. Because at that time, we were talking with Mr. Kleindienst about how to go about smoking out this problem around Mr. Gray, frankly.

Mr. THOMPSON. Why?

Mr. EHRLICHMAN. Why?

Mr. THOMPSON. Why around Mr. Gray?

Mr. EHRLICHMAN. Because Mr. Gray at that time was not acknowledging the problem.

Mr. THOMPSON. You had spoken to him about it?

Mr. EHRLICHMAN. Oh, I had spoken to him about the leaks. I hadn't spoken to him about this specific man in this specific meeting until this call. Mr. Kleindienst and I discussed on several occasions how we might go about determining the source of the leak. He proposed the idea of planting a story or a set of circumstances and seeing if it turned up and this kind of thing. So we were dealing with the Attorney General on that.

Mr. THOMPSON. Did you talk to Walters about this meeting?

Mr. EHRLICHMAN. I don't believe so. I don't believe I talked to John Walters again—

Mr. THOMPSON. Could not Gray and Walters have had a meeting, the two of them, to solve the problem?

Mr. EHRLICHMAN. Yes, that was the whole idea.

Mr. THOMPSON. Was that suggested?

Mr. EHRLICHMAN. That was suggested in the inception.

Mr. THOMPSON. You didn't tell him that the meeting would not be necessary?

Mr. EHRLICHMAN. I don't recall what I told him, except that—

Mr. THOMPSON. It would be inconsistent with your desire to solve the matter, I assume, as to whether or not there was CIA involvement.

Mr. EHRLICHMAN. Well, whatever I told him was for the purpose of not having staff meetings on this particular subject. I can't tell you precisely what I told him.

Mr. THOMPSON. Going back to July of 1971, July 7, 1971, did you call Deputy Director Cushman and ask him to give Mr. Hunt assistance in his activities at that time?

Mr. EHRLICHMAN. No, I have been asked many times about that telephone call and I simply have no recollection of having made that call.

Mr. THOMPSON. Did you know what Mr. Hunt was doing during that period of time? Were you informed?

Mr. EHRLICHMAN. I knew from my one meeting with Mr. Colson and Mr. Hunt jointly what he was supposed to be doing, yes.

Mr. THOMPSON. What was he doing?

Mr. EHRLICHMAN. He was supposed to be engaged in an analysis of the Pentagon Papers and in determining their accuracy, whether or not they were in fact complete accounts of the events which took place or whether they were edited, tailored accounts which did not include the complete facts.

Mr. THOMPSON. In June, when you were talking to Helms and Walters about the possible CIA problem or uncovering some collateral CIA activity, this all evolved around the so-called Mexican money problem, I assume, is that correct?

Mr. EHRLICHMAN. Well, it was much broader than that. It was any unassociated CIA activity.

Mr. THOMPSON. Well, what brought it to anyone's attention? I thought it was the so-called Barker money that had come from Mexico.

Mr. EHRLICHMAN. You mean that precipitated the meeting?

Mr. THOMPSON. Yes.

Mr. EHRLICHMAN. No, it was a much broader concern than that, and it included, as I said, the question of direct involvement, it included whatever exposure there might be for any CIA activity. I think the Mexican money or the Florida bank account or whatever, which involved one of these people who had been a former CIA agent or client or whatever they call them, was raised as an example in the meeting by one of us as the kind of thing that the President evidently was concerned about. And it was discussed as a specific example. But the meeting was by no means limited to that.

Mr. THOMPSON. Can you recall any other specific examples that were discussed?

Mr. EHRLICHMAN. Bay of Pigs.

Mr. THOMPSON. How did that come in?

Mr. EHRLICHMAN. Well, because apparently, the President had specifically mentioned the Bay of Pigs to Bob Haldeman in suggesting the meeting, and then he mentioned it to me again in July as the kind of thing that apparently, CIA might be embarrassed about, that some of the people who were involved in Watergate, apparently, had been involved in the Bay of Pigs and accordingly, whether there was any CIA exposure still existing.

Mr. THOMPSON. The Watergate investigation could possibly turn up some additional investigation on the CIA operation in the Bay of Pigs?

Mr. EHRLICHMAN. CIA involvement or compromise of some sort or something in the past. It was very unspecific, but it was nonetheless mentioned as an example.

Mr. THOMPSON. Can you think of any other examples?

Mr. EHRLICHMAN. No, I cannot. The Mexican money or Mexican laundry or whatever you—

Mr. THOMPSON. Of course, that money wound up in the bank account of a Mr. Barker.

Mr. EHRLICHMAN. Yes.

Mr. THOMPSON. And Mr. Barker, of course, was a protege of Mr. Hunt, brought into the matter by Hunt?

Mr. EHRLICHMAN. A CIA protege of Mr. Hunt.

Mr. THOMPSON. They were in the Bay of Pigs. Was his name mentioned in the meeting?

Mr. EHRLICHMAN. No.

Mr. THOMPSON. The money problem you were talking about seems to have been directly related to Mr. Hunt, which gets right back into the plumber situation again.

Mr. EHRLICHMAN. Barker's name and Hunt's name were not mentioned in the meeting.

Mr. THOMPSON. Mr. Ehrlichman, regardless of what the President specifically told you or did not tell you, I assume that you felt a short time after the break-in, the latter part of June, that it was the President's wish to insure that the investigation of the break-in did not expose either the unrelated covert operation of the CIA or the activities of the White House investigations unit. Did you assume that to be the President's wish, as he stated that it was?

Mr. EHRLICHMAN. Mr. Thompson, I assumed that it was with regard to the CIA because of this meeting we have just been talking about. Frankly, the question of the special unit simply never entered my mind at that time as a potential problem. It just was not in contemplation and it was not in the contemplation of anybody that I was talking to, so far as I can recall.

Mr. THOMPSON. Even though Liddy had worked—

Mr. EHRLICHMAN. That is correct.

Mr. THOMPSON [continuing]. In your office, under your supervision generally?

Mr. EHRLICHMAN. Well, he had worked in my office, in a very remote sense.

Mr. THOMPSON. It did not occur to you that, if he was tried, if he decided to talk, if he decided to bargain, there were a lot of things that he could tell that would be embarrassing, not only politically but compromising with regard to national security?

Mr. EHRLICHMAN. I assure you, Mr. Thompson, it just was not in my consciousness.

Mr. THOMPSON. It evidently crossed the President's mind. When do you think these matters which he sets out in his May 22 statement came to his mind? He says he was informed within a few days about possible CIA involvement. The implication is that he knew about the existence of the unit regardless of any specific activities; that he knew about the unit all along.

Mr. EHRLICHMAN. Oh, he did; there is no question about that.

Mr. THOMPSON. Can we assume that, from the very beginning, from the time immediately after the break-in, that he was concerned from a national security basis, as he says, about the plumbers' activities being revealed?

Mr. EHRLICHMAN. If I could finish what I started to say, Mr. Thompson, he knew about it. His meeting with Mr. Krogh back in July of 1971 is what charged it up and generated the system behind it. The concern about the special unit, to my knowledge, was not evidenced around the White House until the FBI interviews of individuals began sometime in June, when Mr. Dean's office did counsel people who had been connected with the special unit, like Mr. Young's secretary and others, to be very cautious about opening up that subject.

Now, that was a very broad subject. It ranged from the Pentagon Papers through SALT and these other investigations. But that was when this cautionary note was introduced. If the President passed that instruction—as I say, he did not pass it to me directly. He must have passed it to Mr. Dean or someone else.

Mr. THOMPSON. When did you first become concerned about exposing the plumbers' activities?

Mr. EHRLICHMAN. I would think March 20 of this year.

Mr. THOMPSON. March 20 of this year?

Mr. EHRLICHMAN. At the time of the Hunt blackmail attempt.

Mr. THOMPSON. Where did the President get his information from which to make this June 22 statement? He said he was concerned about the reasons for the subsequent improper activities which he admits evidently took place. The reason for this was people becoming overzealous pursuant to his general instructions that CIA covert activities and the plumbers' activities, unrelated to Watergate, not be exposed.

Well, how could he get his information, how could he be concerned about the plumbers' activities except through you?

Senator ERVIN. There is a vote on the Senate floor. We will have a recess now for a couple of minutes so we can go vote.

[Recess.]

Senator ERVIN. Mr. Ehrlichman, you have been sitting there testifying a long time.

Do you need a vacation? Shall we recess briefly?

Mr. EHRLICHMAN. No, that is fine. I have had a nice stretch.

Senator ERVIN. Counsel will resume the questioning of the witness.

Mr. THOMPSON. Mr. Ehrlichman, I don't believe I gave you a chance to answer that last question, if you recall the dialog. If you would like to respond, please do so.

Mr. EHRLICHMAN. Maybe you can help me a little bit, Mr. Thompson.

Mr. THOMPSON. Well, you indicated, I believe, that you really became concerned about exposure of the so-called plumbers' activities, I believe in March of this year. I was inquiring about what appears to have been the President's concern much earlier, right after the break-in.

Mr. EHRLICHMAN. You asked me how in the world would he have known about it if I hadn't told him.

Mr. THOMPSON. What that concern was, and what was the source of it, if you know?



Mr. EHRLICHMAN. Well, of course, the President has many, many channels of information in and he gives instructions to a number of people besides me on a whole range of subjects. So I wouldn't want you to have the impression that he depended on me as the sole source of his information or the sole conduit for his instructions, either one.

I became aware of a very active concern, and a very active practice on the part of Mr. Dean and his colleague, Mr. Fielding, to counsel people who had in some way been associated with the special unit in one way or another, that when they were interviewed by the FBI, this was a subject that was impressed by the President with a very high security classification. That would have been—the FBI really was conducting interviews in the White House in the month of June and on into July. I think they finished for all practical purposes their intensive investigation in the White House during the month of July.

Mr. THOMPSON. Would he not normally have expressed his concern to you, whether or not he was getting any information from you, since he looked to you for supervision of this group? Would he have not expressed his concern to you about in effect, your former employees?

Mr. EHRLICHMAN. Would he not?

Mr. THOMPSON. Did he not?

Mr. EHRLICHMAN. I can't recall that he ever did, Mr. Thompson.

Mr. THOMPSON. I believe you did state that early on, you felt like you had standing instructions that these matters of national security involving the plumbers were matters which were not to be exposed.

Mr. EHRLICHMAN. Yes, sir; I have a very clear recollection of a conversation with the President around the first of 1971, in which he made that very, very clear.

Mr. THOMPSON. But you had no personal concern until March of this year that—what? Either that those matters would be exposed or if they were exposed, that they would have any significant repercussions?

Mr. EHRLICHMAN. I think the former. I had rested secure in a passive sense—this wasn't something that was on my mind a great deal. But I had felt that this was a set of subjects of real delicacy in terms of national security and that really, if there were any subjects that would not be talked about freely or find their way into the public domain, that this is one of those sets of subjects that would not. And I didn't have any conscious concern that anybody involved in it, Hunt and Liddy included, would have told those—

Mr. THOMPSON. When did you first become aware of the fact that money was being raised to pay Hunt, among others?

Mr. EHRLICHMAN. I am not sure that I knew who money was being raised for in any specific sense. You have asked me about Hunt.

Mr. THOMPSON. The Watergate defendants?

Mr. EHRLICHMAN. Yes, I was aware that there was a need for a defense fund, attorneys' fees fund.

Mr. THOMPSON. When did that come to your attention?

Mr. EHRLICHMAN. It must have been late in June and it came to me through Mr. Dean, who said that the defendants were losing their attorneys, attorneys were quitting, they were not being paid. John Mitchell felt very strongly that it was important to have good legal representation for these defendants for a number of reasons—for political reasons, but also because we had these civil damage suits that

had been filed by the Democrats against the Committee for the Re-Election and the Republicans.

Mr. THOMPSON. What do you mean "for political reasons"?

Mr. EHRLICHMAN. Well, just that if there were to be a trial and it were to take place before the election, that obviously, that trial would have some political impact and good representation was simply essential.

Mr. THOMPSON. How would money help in that regard? Motions for continuances or—

Mr. EHRLICHMAN. Money would help to retain attorneys. At least, that was my understanding of the concept.

Mr. THOMPSON. It certainly would do that?

Mr. EHRLICHMAN. Evidently.

Mr. THOMPSON. What about later on? Did it come to your attention that there were increasing pressures by Hunt specifically for money, more money for himself and his attorneys?

Mr. EHRLICHMAN. I don't think I became aware of that until sometime after the 1st of the year. Then it came not in the, not so much in the money sense where Hunt was concerned, but it related to this episode of his trying to make contact with Mr. Colson to satisfy himself that Colson was still standing by him and that he was still his friend, and this kind of thing. It was not until we got into about the 20th of March that I became aware that Hunt was in fact making strong money demands.

Mr. THOMPSON. You didn't have any discussions with anyone, Dean or anyone else, during all this period of time, about Hunt in fact was threatening to blow the lid off unless his money demands were met?

Mr. EHRLICHMAN. No, I don't believe so.

Mr. THOMPSON. You drew no distinction in your mind between Hunt and Liddy and the Cuban-Americans? They were all just one package?

Mr. EHRLICHMAN. As two groups?

Mr. THOMPSON. Yes. You didn't feel like it was any more imperative that Hunt and Liddy had sufficient funds to hire good lawyers to make them happy than for the Cuban-Americans?

Mr. EHRLICHMAN. No. And it was not, obviously, to make them happy and it was for the purpose that I have stated.

Mr. THOMPSON. Humanitarian?

Mr. EHRLICHMAN. Well, no; I conceived of this as being like, you know, the Daniel Ellsberg defense fund and the Angela Davis defense fund and the Berrigan brothers defense fund. It is apparently a commonplace of American life these days that these kinds of funds are created and that people do donate to them.

Mr. THOMPSON. Is it your understanding that this particular defense fund was going to be secret?

Mr. EHRLICHMAN. No, as a matter of fact, Mr. Dean told me that there was a public defense fund being created in Florida right around this time.

Mr. THOMPSON. But this was not the one that Mr. Kalmbach was engaged in, was it?

Mr. EHRLICHMAN. This was, as I understood it, one that had been generated within the Cuban community down there.

Mr. THOMPSON. But is that not something completely separate and apart from what Mr. Kalmbach was doing? Didn't Mr. Kalmbach come to you and, in essence, tell you that he was raising money and ask if it was all right?

Mr. EHRLICHMAN. Well, not quite in those terms, but I had a conversation with Mr. Kalmbach about the fact that he was raising money for attorneys' fees.

Mr. THOMPSON. Give us the essence of that conversation, if you can. When did it occur and what was said?

Mr. EHRLICHMAN. It occurred on July 14 out in his office in Newport Beach. That was a Friday afternoon. I stopped at his office on my way from the western White House back to the place that I was staying, which was on farther north, and he showed me his offices. We talked about the California political situation, which he was then very concerned about, on which he had a number of ideas. And he mentioned to me in the course of that get-together that he was now raising money. He said it rather philosophically, because we had had a conversation back sometime in February or March in which—

Mr. THOMPSON. How do you talk about raising money, philosophically? [Laughter.]

Mr. EHRLICHMAN. Well, this way: He had hoped to get out of the money-raising business the first of April and we had hatched a rather elaborate plot to get him out of the money-raising business and it was that Bob Haldeman and I would be his defense when Maury Stans and John Mitchell asked him to get back into the fundraising again. He said he had had that activity and he had been at it a couple of times in Presidential campaigns and he really wanted to do other kinds of things to be helpful.

So we agreed that when he was approached by Mr. Stans or Mr. Mitchell, that he would say, and we would back him up, that he was going to do political chores for the White House on assignment.

He was philosophical about it in the sense that it was sort of, well, maybe you have heard—

Mr. THOMPSON. Could I ask you this?

Mr. EHRLICHMAN [continuing]. I am back raising money again.

Mr. THOMPSON. Pardon me for interrupting. Could I ask you this: He testified essentially that he looked into your eyes and said, "John, I know your family, you know my family, is this the thing to do, is it all right?"

You said, "yes, Herb, it is."

Now, did that happen?

Mr. EHRLICHMAN. I am sure that if he had looked into my eyes and I had looked into his eyes and we had invoked the names of our wives, I am sure I would remember that solemn occasion and I am sorry to say that I don't remember.

I would never in my life ask Herb Kalmbach to do anything that I thought was shady or improper, certainly not illegal. And if Herb Kalmbach had ever said to me, "Do you vouch for the propriety or the legality of what I am doing," I would have been very, very slow to make any assurance to Herb without a lot of research to satisfy myself. And that is why I am pretty sure that that kind of request was not made of me and I did not make a response, because I never did have occasion to research it or find out about it.

Mr. THOMPSON. Dean had already talked to you about it previously, though?

Mr. EHRLICHMAN. Well, he had talked to me about it. He said, "Look, I am going to see if we can get Herb Kalmbach wound up to raise some attorney's fees for John Mitchell, who says we have really got to do it for the reasons that I have stated." He said, "if he checks with you, back me up on this."

Now, it happened that he did not check with me. Herb did not call me and we did not talk about it until he was well into the project. As I say, it was, as I recall, the 14th of July when we first discussed it. And the balance of the conversation, after he said, as I say, rather resignedly, that he was back in this, that he was using Tony Ulasewicz to carry cash—and I got the impression that he was carrying cash from California to the East and I may be mistaken about that, but I related that to Dean's very brief conversation with me before about this. There was no solicitation of him to me, is this OK for me to do or anything of that sort at that time.

Now, he was in my office again back here, what, 12 days later, I guess it was, on the 26th. and my log shows that. I do not know—he made periodic visits and he would come in and he would have a whole list of things that he wanted to talk about, and we would go down his list. It may be that this business was on it, but I am just morally certain that there was no such request of him that I vouch for the activity nor was there any vouching on my part.

Mr. THOMPSON. Mr. Ehrlichman, I would like to conclude. Now the reason I am probing this area with regard to your frame of mind at the time is this: It appears to me that if, say, the break-in at the psychiatrist's office of Daniel Ellsberg was a legitimate matter, a matter concerning national security and was held under your interpretation, I presume, of the implied powers of the President under the Constitution; if you felt this way, and if, in fact, the President had instructed you for national security reasons to see that those matters were not uncovered or exposed in the investigation of the Watergate, then all of these other matters would seem to follow as a matter of course, the other matters you responded to, this business about telling Dean to deep-six the Hunt documents; the business about seeing that money was raised or helping to see that money was raised to keep the defendants quiet; this business about offering Hunt Executive clemency or the President offering Hunt Executive clemency and I know you want to respond to all of those, but I am interested in how you felt at the time. If, first, you did feel like the previous activities of the Plumbers were legitimate and legal, and, second, the President did give you the instruction which he says he gave you, then would not these matters follow as a matter of course, and would you have any reason to deny them?

Mr. EHRLICHMAN. Mr. Thompson, without getting into all of these specific misstatements of truth, let us look at what I did do when the President gave me the instruction back in the first of 1972, with regard to holding confidential the activities of that special unit. What I did do was to contact the people who were involved, that is, Krogh, and Young primarily, and say, "This is the President's decision, this is his determination, he does not want this talked about. It is confidential, it is secret, it is not to be discussed."

Mr. THOMPSON. Before the Watergate?

Mr. EHRLICHMAN. Oh, yes, 6 months before. But the point is I did not run around trying to bribe anybody, I did not run around trying to shred documents. As a matter of fact, we preserved the documents for historical purposes because this was an important interlude, I feel, in the history of this country. We had never had such a wholesale raid on the Nation's defense secrets as we had in that 6-month period.

Mr. THOMPSON. The problem with exposure of activities, of course, came after the Watergate because of the very fact of the Watergate and the pursuant investigation. What did you do after the break-in at the Watergate pursuant to the President's instructions?

Mr. EHRLICHMAN. Well, as far as I know, and this is not anything that I particularly did, speaking now of the White House generally. The only thing that was done, if in fact these instructions were given, as I say they were not given to me, the only thing that I know that was done, was that various people were cautioned that this was a top secret subject prior to their giving interviews to the FBI. Beyond that I do not know anything else that was done.

Mr. THOMPSON. You did nothing else?

Mr. EHRLICHMAN. Sir?

Mr. THOMPSON. You did nothing else to see that these activities were not exposed?

Mr. EHRLICHMAN. I cannot think of anything.

Mr. THOMPSON. Thank you, Mr. Ehrlichman. I have no further questions. Mr. Chairman.

Senator ERVIN. Now, in the interest of expediting matters we are going to hold each Senator's first go-around to 20 minutes and I ask Senator Baker to keep time on me.

Mr. Ehrlichman, do I understand that you are testifying that the Committee To Re-Elect the President and those associated with them constituted an eleemosynary institution that gave \$450,000 to some burglars and their lawyers merely because they felt sorry for them? [Applause and laughter.]

Mr. EHRLICHMAN. I am afraid I am not your best witness on that, Mr. Chairman. I do not know what their motives were. I think those will appear in the course of the proceeding.

Senator ERVIN. You stated this was a defense fund just like that given to Angela Davis and to Daniel Ellsberg, did you not?

Mr. EHRLICHMAN. I stated that was my understanding of it.

Senator ERVIN. Yes. Well, Daniel Ellsberg and the Angela Davis defense funds were raised in public meetings and the newspapers carried news items about it, did they not?

Mr. EHRLICHMAN. I am not sure that we know who the donors to those funds were. I dare say there are many people in this country who contributed to those funds who would not want it known.

Senator ERVIN. Yes. But do you not think most of the people contributed their funds because they believed in the causes they stood for?

Mr. EHRLICHMAN. I assume that.

Senator ERVIN. Well, certainly, the Committee To Re-Elect the President and the White House aides, like yourself, did not believe in the cause of burglars or wiretappers, did you?

Mr. EHRLICHMAN. No.

Senator ERVIN. Can you——

Mr. EHRLICHMAN. I didn't contribute a nickel, Mr. Chairman.

Senator ERVIN. Yes. [Laughter.]

You authorized somebody else to contribute?

Mr. EHRLICHMAN. No, I would like to set that straight, if I might, Mr. Chairman.

The only reason that anybody ever came to me about Mr. Kalmbach raising money was because of this arrangement that we had entered into that we would protect Mr. Kalmbach if he wished to be protected from requests to raise money. Now that is—it was a situation where obviously he didn't wish to be protected. He made the judgment, he made it independent of me, and whether I conceded to it or not obviously didn't make any difference.

Senator ERVIN. Did he ever talk to you about that?

Mr. EHRLICHMAN. Not until after the fact.

Senator ERVIN. I will ask you if he didn't come to you and not only talk about having known you a long time and you having known his family, but didn't he ask you whether it was a proper or legal operation?

Mr. EHRLICHMAN. Mr. Chairman, the testimony is that that meeting, according to Mr. Kalmbach, was the 26th of July when he was long into this, and as I have already testified.

Senator ERVIN. He testified he had become dubious about the propriety of it and he went to you for reassurance?

Mr. EHRLICHMAN. Well, as I——

Senator ERVIN. And he also testified when he got to you that you told him it was all right and to see that the money was delivered in secret because if he didn't deliver it in secret their heads would be in their laps. Didn't that occur?

Mr. EHRLICHMAN. No. As a matter of fact, Mr. Chairman, as I have just told Mr. Thompson, I would be terribly slow to reassure Herb Kalmbach, whom I consider a good and close friend, of the propriety of any such undertaking, of any such undertaking without checking it first, if he had asked me, and I am testifying to you, Mr. Chairman, that he did not ask me.

Senator ERVIN. Well, you recall his testimony was to the effect that I have given you?

Mr. EHRLICHMAN. You mean about the head in the lap business?

Senator ERVIN. Yes; that the heads would roll.

Mr. EHRLICHMAN. I suspect that what was said there was that certainly Mr. Kalmbach's involvement——

Senator ERVIN. I am not asking about that. My question is, didn't he have a conversation in which you told him to do it in secret because otherwise "If it gets out, our heads will be in their laps"?

Mr. EHRLICHMAN. I am trying to answer you, Mr. Chairman.

Senator ERVIN. Well, you can answer that yes or no. I have just 20 minutes at this time, and I want to ask my questions. [Laughter.]

I will put this question to you: Don't you consider that Herbert Kalmbach——

Mr. EHRLICHMAN. I am perfectly willing to answer that, Mr. Chairman.

Mr. WILSON. Let him answer that question, Mr. Chairman, please.

Senator ERVIN. He goes off and answers something I don't ask him.

Mr. WILSON. Yes, but a "Yes" and "No" usually calls for explanation.

Senator ERVIN. Well, what is the answer, yes or no, that he had this conversation with Mr. Kalmbach?

Mr. EHRLICHMAN. I had a conversation with Mr. Kalmbach, Mr. Chairman, and I have no doubt that we, if he says so, that we discussed the question of secrecy because I do recall his saying that Mr. Ulasewicz was carrying money back and forth.

Now, I had in my mind at that time the realization that this, what I considered to be a legitimate undertaking, could be terribly misconstrued if someone were to impute the efforts of the President's lawyer to this defense fund for Watergate burglars. I mean there is room for misunderstanding; I think you have stated the misunderstanding very eloquently in your opening question.

Senator ERVIN. So that was the reason that you made arrangements by which a gentleman in California, who resided in California, would deliver the money in cash and sometimes in laundry bags to an ex-policeman in New York, and allow the ex-policeman to come down and deliver the money under orders that he wasn't going to permit the people he delivered it to, to see him.

Mr. EHRLICHMAN. Well, Mr. Chairman, as you know, I had nothing to do with those details at all. As a matter of fact, I was quite surprised to learn in the testimony here that there was what amounted to a laundering process where committee money or money held by people in the committee were passed through several hands and around to Mr. Kalmbach for eventual delivery, and this, of course, all predated any conversation that Mr. Kalmbach and I had.

Senator ERVIN. Well, I have always thought that if a political institution or committee enacted the role of an eleemosynary institution, it would, like the Pharisee, brag about it on all opportunities, and so you agreed with me that a Doubting Thomas might think that this money was routed in this clandestine way, not only to keep it secret but also to keep these people that were receiving the money secret?

Mr. EHRLICHMAN. No, I don't agree with that because I don't know that. I haven't heard anything—

Senator ERVIN. I am not talking about you; a Doubting Thomas might reach a very erroneous conclusion, mightn't he?

Mr. EHRLICHMAN. Doubting Thomases are known for conclusions like that.

Senator ERVIN. Let's see, didn't you have a phone conversation with Mr. Kalmbach just before he came to Washington to testify before the grand jury about this matter?

Mr. EHRLICHMAN. I believe he was in Washington with his attorneys at the time.

Senator ERVIN. Yes. And didn't you bug his telephone conversation with you?

Mr. EHRLICHMAN. No, sir.

Senator ERVIN. Didn't you record it then?

Mr. EHRLICHMAN. Yes, sir.

Senator ERVIN. Did you tell him in advance? [Laughter.]

Will you tell us precisely what the difference is between recording a telephone conversation and bugging it?

Mr. EHRLICHMAN. I will be happy to tell you my view of it.

Senator ERVIN. That is what I asked.

Mr. EHRLICHMAN. I have an ordinary dictating machine, or did have in my office, that had a knob on it that evidently was put there by the factory at the company when they made it, and all that is necessary for me to do to cause the telephone conversation to go onto the dictabelt, which otherwise I would use to dictate letters, would be to turn that little knob.

Now, as I understand the bug, that is the kind of thing that you had Mr. McCord and others in here showing that, showing inside of telephones and are something that are not exactly factory models.

Senator ERVIN. Well, I have about 15 telephones, and none of them came with any kind of machine like that on them [laughter] and I haven't put any on them either.

Mr. EHRLICHMAN. I think the result is about the same as having your secretary listen in on the other line and take it down in shorthand.

Senator ERVIN. Yes, but you didn't tell Mr. Kalmbach that you were recording his conversation, did you?

Mr. EHRLICHMAN. Sir. No more did he tell me that he had two lawyers in the room with him.

Senator ERVIN. Yes.

Well, you see no difference between a man who is going before a grand jury having two lawyers and a man having a recording or bugging instrument annexed to his telephone.

Mr. EHRLICHMAN. Well, I take exception to bugging because I think that is an unfair characterization, Mr. Chairman.

Senator ERVIN. Well, recording, I will give you the polite euphemism.

Mr. EHRLICHMAN. Thank you, I appreciate it.

Senator ERVIN. Now, on this recording, Mr. Kalmbach said: "You know, when you and I talked and it was after John had given me the word and I came to ask you, 'John, is this an assignment I have to take on?'"

"You said, 'Yes, it is, period,' and move forward. Then that was all that I needed to be assured that I wasn't putting my family in jeopardy."

Now, didn't Kalmbach make that statement to you in the telephone conversation the day before he came to testify before the grand jury and was recorded on this view annexed to your telephone?

Mr. EHRLICHMAN. Could I see what you are looking at, Mr. Chairman?

Senator ERVIN. Page 3.

Mr. EHRLICHMAN. I'm not sure I have a copy of what you have there. Well, I don't know whether yours was transcribed from the belt or what the source of it was, but I would like to compare what you have, if you don't mind.

Mr. DASH. This is the transcript received from your attorney on subpoena, so I take it that it is the same thing you have.

Mr. WILSON. Mr. Chairman, may I ask Mr. Dash, did you get that from the U.S. attorneys or from us?

Mr. DASH. No, no, from you.

Mr. WILSON. All right.

Senator ERVIN. Page 3, the first question on top of page 3.



Mr. EHRLICHMAN. Yes, I think that was in response to the statement that I made at the bottom of page 2, Mr. Chairman, in which I made clear that Mr. Dean came to me, as I have testified here, and asked me to vouch for him without giving me any specifics.

Senator ERVIN. Well, this is not about the conversation between you and Mr. Dean. This is a conversation between Mr. Kalmbach and you, and he asked you specifically, he said, "You know, when you and I talked and it was after John"—which I presume is John Dean—"had given me that word, and I came in to ask you, 'John' "—I interpret that to mean John Ehrlichman, quote—"is this an assignment I have to take on." You said, quote, 'Yes, it is, period and move forward.'

"Then that was all that I needed to be assured I wasn't putting my family in jeopardy," and your answer is, "Sure."

Mr. EHRLICHMAN. But my question is also important because his—the statement you just read is a response to something that I said at the bottom of page 2, sir.

Senator ERVIN. No, this word "sure" is what you said in response to a question put by Kalmbach to you, not anything else.

Mr. EHRLICHMAN. Well, I have to disagree with you, Mr. Chairman. I suppose what we have to do is take the whole context of what Mr. Kalmbach said in order to understand its meaning.

Senator ERVIN. Well, Mr. Ehrlichman, I can't see what it was—

Mr. EHRLICHMAN. The context is that I had just said to him at the bottom of page 2 that "John Dean came to me and said this was an urgent matter and that he gave me no specifics but this was something that Mitchell had told him was important, and I said to John Dean, 'Well, if you tell me it is that important why, yes, without having any specifics,'" and then he goes on and reads, he goes on and says what you just read.

Senator ERVIN. You are telling Kalmbach what?

Mr. EHRLICHMAN. And, of course—

Senator ERVIN. What Dean said to you and Haldeman?

Mr. EHRLICHMAN. Yes, I understand you just read me what he told me.

Senator ERVIN. Yes. Now, you denied a while ago that you gave Kalmbach any such assurance, did you not?

Mr. EHRLICHMAN. No, sir, what Mr. Thompson asked me and what I denied was this very vivid and dramatic moment when we looked deep into each other's eyes and I said with solemn assurance that this was both legal and proper. And I made no such solemn assurance and, as a matter of fact, in what you read here the word "period" stands out graphically because "period" means that was the end of the conversation and you will notice that there is nothing in there about my assuring Mr. Kalmbach that this was either proper or legal.

Senator ERVIN. Well, now, Mr. Kalmbach says to you in about as plain words as can be found in the English language "You know, I came in to ask you, John, is this an assignment I have to take on. You said, 'Yes, it is, period, and move forward'."

Mr. EHRLICHMAN. But you have to read that, Mr. Chairman. You have to read that in the context of the previous comment which I just referred to in which I vouch that the urgency in the matter was not anything I knew of my own knowledge but what Mr. Dean told me on the basis of his conversation with Mr. Mitchell.

Senator ERVIN. But you told him that this was an assignment he had to take on.

Mr. EHRLICHMAN. Well, obviously, Mr. Chairman, he is not my employee, he is not my vassal. I hold no sway over him. It was very much a situation where Mr. Kalmbach undertook this, and you will recall he undertook it some 6 weeks before we had this conversation.

Senator ERVIN. Well, he said he had been on it a few weeks, yes. But he went on with it after this and he says he went on it solely because you gave him this assurance, which appears here, except he put it more dramatically.

Mr. EHRLICHMAN. No, sir, no, sir, he went on with it, according to his testimony, if I may respectfully disagree, because of the assurances I gave him about the propriety and legality of it which I assure you did not happen and which this conversation, I think, indicates did not happen.

Senator ERVIN. Mr. Ehrlichman, what did you say when Mr. Kalmbach asked you in this telephone conversation, which you recorded unbeknownst to him, when he asked you "You know, and I came to ask you, John, is this an assignment that I have to take on?"

Mr. EHRLICHMAN. What I said to him, Mr. Chairman, in addition to the word "sure" was the material that I have just referred to on the bottom of page 2 that you apparently do not feel is in this context, but I do.

Senator ERVIN. He said he did not come to you, but he had gotten dubious with Dean and that is the reason he came to you and you told him here that this was an assignment he should take on.

Mr. EHRLICHMAN. But I did it in terms of the context which is at the bottom of page 2, Mr. Chairman, where I say "Mr. Dean came to me and gave me that assurance and I have made no independent inquiry and he was doing so because of the urgency stated by Mr. Mitchell," and it has to be taken in that context, Mr. Chairman, or it is not meaningful.

Senator ERVIN. So at that time you relied implicitly on Dean?

Mr. EHRLICHMAN. Yes, sir.

Senator ERVIN. And now you do not trust him?

Mr. EHRLICHMAN. Sir, that is correct.

Senator ERVIN. Yes.

Mr. EHRLICHMAN. And I dare say that the dawn broke somewhere toward the end of March of this year.

Senator ERVIN. Well, let us go on to something else. You said something about the burglarizing of the office of the psychiatrist of Ellsberg was justified by the President's inherent power under the Constitution, did you not?

Mr. EHRLICHMAN. Yes, sir.

Senator ERVIN. And you referred to a certain statute.

Mr. EHRLICHMAN. I referred to a statute in which the Congress in 1968 made a recognition of that inherent power.

Senator ERVIN. Is that 18 U.S.C. 2511?

Mr. EHRLICHMAN. Yes, sir.

Senator ERVIN. Now, this statute has nothing to do with burglary. It only has to do with—

Mr. EHRLICHMAN. It has to do with the U.S. Constitution, Mr. Chairman.

Senator ERVIN. No, sir. That is not the purpose of the statute. The Constitution takes care of itself even there. This has to do with the interception or disclosure of wire or oral communications prohibited.

Mr. EHRLICHMAN. No, sir, it also has to do with the Congress recognition of what the Constitution provides with relation to the powers of the President.

Senator ERVIN. Is there a single thing in there that says that the President can authorize burglaries?

Mr. EHRLICHMAN. Well, let us read it, Mr. Chairman.

Mr. WILSON. Mr. Chairman, this being a legal point, do you not think that maybe you and I should debate this?

Senator ERVIN. No. I think he is a lawyer. He was counsel to the President.

Mr. EHRLICHMAN. Not for a long time, Mr. Chairman. I have been out of the law business for several years.

Mr. WILSON. Why don't we read the statute?

Senator ERVIN. Yes, I will read the statute, it is pretty long. I can ask about it without reading because I just have 20 minutes and a little of that left. It says here that this statute, which makes it unlawful to intercept and disclose wire or other communications, says that this shall not interfere with the constitutional power of the President to—

Mr. EHRLICHMAN. To do anything.

Senator ERVIN [continuing]. To do anything necessary to protect the country against five things.

Mr. EHRLICHMAN. Yes, sir.

Senator ERVIN. The first says actual or potential attacks or other hostile acts of a foreign power. You do not claim that burglarizing Dr. Ellsberg's psychiatrist's office to get his opinion, his recorded opinion, of intellectual or psychological state of his patient is an attack by a foreign power, do you?

Mr. EHRLICHMAN. Well, we could have a lot of fun with all four of these until we get to the operative one, Mr. Chairman.

Mr. WILSON. May I get into this, may I get into this legal debate?

Senator ERVIN. Well, yes. You claim that, Mr. Wilson, do you?

Mr. WILSON. Then, you read into that sentence which says or to protect national security information against foreign intelligence activities.

Senator ERVIN. Against foreign intelligence activities. The foreign intelligence activities had nothing to do with the opinion of Ellsberg's psychiatrist about his intellectual or emotional or psychological state.

Mr. EHRLICHMAN. How do you know that, Mr. Chairman?

Senator ERVIN. Because I can understand the English language. It is my mother tongue. [Applause.]

Mr. WILSON. Mr. Chairman, may I answer that?

Senator ERVIN. Well, if you want to be a witness, Mr. Wilson, yes, sir.

Mr. WILSON. I will be glad to be one.

Senator ERVIN. I do not care if you would be sworn. [Laughter.]

Mr. WILSON. The CIA must have thought that it had some foreign relationship because they had done an ineffective profile on Ellsberg.

Senator ERVIN. Well, the CIA had no business doing that because the law prohibits them from having anything to do with internal security. [Applause.]

Mr. WILSON. Sir, you would not consider that foreign intelligence activity is a—

Senator ERVIN. No, it was a domestic intelligence activity. These people were from the Plumbers, from the White House doing this.

Mr. WILSON. We had a man passing secrets to the Soviet Government.

Senator ERVIN. Well, Ellsberg's psychiatrist wasn't doing that. [Laughter.]

Mr. EHRLICHMAN. Of course, that is just the point, Mr. Chairman.

Mr. WILSON. Of course. Why did the CIA want to do a profile?

Senator ERVIN. Because—I want to give you that because—the CIA in my book has nothing to do with the bugging the psychiatrist's office in the United States to find out what the emotional or psychological or intellectual state of an American is.

Mr. EHRLICHMAN. Mr. Chairman, would you let a layman respond to this?

Senator ERVIN. I thought you were—yes, I was trying to question you, but your lawyer didn't seem to want me to do it.

Mr. EHRLICHMAN. I think that is a broadly held view in the legal profession these days.

I think that basically you have to take this in context. We had here an unknown quantity in terms of a conspiracy. We had an overt act in the turning over of these secret documents to the Russian Embassy, and moreover we have a technique here in the development of a psychiatric profile which apparently, in the opinion of the experts, is so valuable that the CIA maintains an entire psychiatric section for that purpose.

Now, putting those all together, I submit that certainly there is in 2511 ample constitutional recognition of the President's inherent constitutional powers to form a foundation for what I said to this committee.

Senator ERVIN. Well, Mr. Ehrlichman, the Constitution specifies the President's powers to me in the fourth amendment. It says:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

Nowhere in this does it say the President has the right to suspend the fourth amendment.

Mr. EHRLICHMAN. No, I think the Supreme Court has said the search or seizure or whatever it is, has to be reasonable and they have said that a national security undertaking can be reasonable and can very nicely comply with the fourth amendment.

But, Mr. Chairman, the Congress in 1968 has said this: "Nothing contained in this chapter or in section 605 of the Communications Act," and so forth, "shall limit the constitutional power of the President to take such measures as he deems necessary to protect the Nation against," and then it goes on, "to protect national security information against foreign intelligence activities."

Now, that is precisely what the President was undertaking. He was not undertaking it under this statute. He was undertaking it under that constitutional power which you gentlemen and the other Members of the Congress recognized in this section.

Senator ERVIN. Yes, I have studied that statute. I have committed that statute. And there is not a syllable in there that says the Pres-

ident can suspend the fourth amendment or authorize burglary. It has no reference to burglary. It has reference only for interception of wire or oral communications.

Now, Mr. Ehrlichman, when did you learn about the fact that two people employed by the White House, Liddy and Hunt, had burglarized the office of Ellsberg's psychiatrist?

Mr. EHRRLICHMAN. I believe that it was either the day after or 2 days after I returned from a vacation at Cape Cod, which would have put it 1 or 2 days after Labor Day of 1971.

Senator ERVIN. 1971?

Mr. EHRRLICHMAN. Yes, sir.

Senator ERVIN. And so Liddy and Hunt, who were accessories to the fact of a felony before the burglary, were kept on the White House payroll and given an office in the Executive Office Building, to your knowledge, until after the break-in of the Watergate?

Mr. EHRRLICHMAN. Well, Mr. Chairman, I can't adopt the various assumptions of your question with regard to the criminality of the act, and so forth. My advice at that time was that both Hunt and Liddy had acted pursuant to an authorization, and taking into account the—

Senator ERVIN. An authorization from whom?

Mr. EHRRLICHMAN. Well, I assumed from Mr. Krogh.

Senator ERVIN. Well, Mr. Krogh, I believe, got his authorization from you, didn't he?

Mr. EHRRLICHMAN. Well, not as far as I know, he didn't. No, sir.

Senator ERVIN. Well, he was under your supervision.

Mr. EHRRLICHMAN. He was generally under my supervision on the domestic council staff as a routine proposition.

Senator ERVIN. Mr. Ehrlichman, you are a lawyer and you know that a psychiatrist is forbidden to divulge the information about his patient, don't you, without his patient's consent?

Mr. EHRRLICHMAN. Well, I think we are going to split hairs, it would be in circumstances—

Senator ERVIN. That is not splitting hairs. That is a Hippocratic oath which started back in ancient Greece and has been going ever since.

Mr. EHRRLICHMAN. I am not sure psychiatrists in every case are M.D.'s, but let's assume that for the sake of argument.

The fact is that as I have stated earlier, my assumption is that it is possible to get specific medical, and other kinds of confidential information, through a trained investigator if he knows what he is looking for without a violation of law.

Senator ERVIN. Mr. Ehrlichman, you are a lawyer and you know that a psychiatrist is forbidden by law to divulge the confidential information he gets from his patient, on examination of the patient, to make a diagnosis, without his client's consent. Now, don't you know that?

Mr. EHRRLICHMAN. I didn't know that was a matter of law. I know there is a privilege that exists as a matter of law, but I don't know that it's a criminal violation. It may well be. I just didn't know.

Senator ERVIN. Don't you know there's a statute to that effect in every State in this Union and the only statutes that make an exception to that is a judge in a court can require the physician or the psychia-

trist to testify about his patient if he finds it's in the interests of justice?

Mr. EHRLICHMAN. No, I didn't know that, Mr. Chairman.

Senator ERVIN. And yet you were adviser to the President of the United States?

Mr. EHRLICHMAN. Well, I dare say there are a lot of things that I don't know, Mr. Chairman.

Senator ERVIN. Well, if you had known the law, I would submit that in all probability, you would also have known that the only way you could get the opinion of the psychiatrist, Ellsberg's psychiatrist, was by some surreptitious manner in some surreptitious fashion.

Mr. EHRLICHMAN. I don't know what you mean by surreptitious, Mr. Chairman. I do know this from experience, that information of this kind is obtainable. Insurance adjusters obtain it, investigators obtain it, attorneys obtain it, and they obtain it through nurses, through nurses' aides, through all kinds of sources. And we would be kidding ourselves if we didn't admit that.

Senator ERVIN. You don't know what the word "surreptitious" means?

Mr. EHRLICHMAN. Well, I don't know what you meant by it in that question, Mr. Chairman.

Senator ERVIN. Well, can't you answer? Don't you know, really?

Mr. EHRLICHMAN. I did know the word. You were using it in a pejorative sense, Mr. Chairman, and I was not sure just how.

Senator ERVIN. Some people do things in illegal fashion, obtain information in illegal fashion. But I would assert as a lawyer that when you go to getting the record of a patient, of a doctor's recorded opinion of his patient, that you cannot get it legally without consent of the patient or without an order of a judge. The only other way you can get it is in an illegal or unethical way.

I have taken more than my 20 minutes.

Senator BAKER. Mr. Chairman, I have to confess I didn't have the courage to cut you off at 20 minutes. But I also have to confess that you are the only man I ever saw who can read the transcript of a telephone conversation, to wit: "And it was after John had given me the word and I came in and asked, and said, John, is this my assignment," and make it sound like the New Testament. [Laughter.]

Mr. Ehrlichman, it is 4:50 in the afternoon and I am sure in the allocation of 20 minutes that are given to me, we won't cover all of the material that we could cover. We may not cover all of the questions that I would like to ask. But I would like to try to avoid a repetition of the points that have been put to you. I would like to avoid, if I can, much of the detail that is used to test your evidence, your testimony, against that of other witnesses, which is a standard and traditional legal tool and technique, and go to a couple of fundamental considerations, to wit:

Did you know on or prior to June 17, 1972, that there was planned and that there would be executed a covert entry into Democratic National Committee headquarters at the Watergate complex in Washington?

Mr. EHRLICHMAN. No, I didn't, Senator.

Senator BAKER. Did you have any information that you later recognized as an indication that that was about to occur?

Mr. EHRLICHMAN. No, sir.

Senator BAKER. When did you first learn of the break-in?

Mr. EHRLICHMAN. On the day following the break-in, when I received this telephone call toward dusk, late in the afternoon.

Senator BAKER. From whom?

Mr. EHRLICHMAN. From Mr. Boggs of the Secret Service.

Senator BAKER. And I know this is somewhat repetitious, but tell us again, for the sake of sequence, what Mr. Boggs told you?

Mr. EHRLICHMAN. Briefly, he said that he had had a report from the Metropolitan Police Department about this incident because some of the people who had been picked up, or one of them, had in his possession the name of someone who apparently was a White House employee. And that was Howard Hunt.

Senator BAKER. What was your reaction to that?

Mr. EHRLICHMAN. I asked him a little bit about the circumstances, when it had happened, how many people were involved, whether anybody from the White House was directly involved, this kind of thing, and thanked him very much.

Senator BAKER. What did he say?

Mr. EHRLICHMAN. He said that as far as he knew, that was the only connection with the White House, just the possession of this fellow's name, and he told me that five people had been caught redhanded burglarizing the Democratic National Committee headquarters.

Senator BAKER. Did he tell you the names of the five people?

Mr. EHRLICHMAN. He may have, but it didn't mean anything to me.

Senator BAKER. What did you do with the information?

Mr. EHRLICHMAN. I made a phone—I made two phone calls. I called Ron Ziegler, the press secretary, who was with the President in Florida, and told him about that telephone call because I thought he might be getting some inquiries or would want to make some inquiries.

Senator BAKER. Is that the first call you made?

Mr. EHRLICHMAN. I think it is, although it may have been in reverse order.

I also called Mr. Colson to find out whether Howard Hunt still was employed in the White House. And I am not sure whether I did that in response to a question from Mr. Ziegler or not, but both were in rapid sequence.

Senator BAKER. Did you call anyone else except Mr. Ziegler and Mr. Colson on June 17?

Mr. EHRLICHMAN. Not that I can recall. Mr. Caulfield testified here that he called me, and he may have. I don't have a specific recollection of the phone call, but if he did, it was after the call from Mr. Boggs.

Senator BAKER. Did anyone else call you on June 17?

Mr. EHRLICHMAN. I believe not.

Senator BAKER. So the sum total of your information was a call from Mr. Boggs of the Secret Service and the sum total of your activity was to call Mr. Zeigler and Mr. Colson?

Mr. EHRLICHMAN. Right.

Senator BAKER. Did you read the newspaper accounts of the break-in?

Mr. EHRLICHMAN. Yes, sir.

Senator BAKER. Did you gain additional information from the newspaper accounts?

Mr. EHRLICHMAN. Yes.

Senator BAKER. What information?

Mr. EHRLICHMAN. Well, I learned, for instance, that one of the people apprehended was an employee of the Re-Election Committee and I don't think that Mr. Boggs had told me that the previous evening.

Now, I may have seen it on the news, come to think of it, that night, I may have watched the television news.

Senator BAKER. Did you talk to the President on the 17th?

Mr. EHRLICHMAN. No, I didn't, not that I can recall.

Senator BAKER. Did you talk to Mr. Haldeman on the 17th?

Mr. EHRLICHMAN. I think I talked to him on the following day.

Senator BAKER. Let's limit it to the 17th for the moment.

Mr. EHRLICHMAN. All right.

Senator BAKER. Did you talk to Mr. Dean?

Mr. EHRLICHMAN. No.

Senator BAKER. Mr. Mitchell?

Mr. EHRLICHMAN. I don't believe so. I have heard testimony here that I did. I can't recall a conversation with Mr. Mitchell.

Senator BAKER. Were you concerned about it?

Mr. EHRLICHMAN. Not particularly.

Senator BAKER. All right. Move on, then, to the 18th.

Who did you talk to, who talked to you, what additional information did you receive, and what action did you take? And if you don't mind, Mr. Ehrlichman, as briefly as possible, outline for me the steps that you took, the information you received, the general state of circumstances from your first information on June 17, 1972, for a few days thereafter.

Mr. EHRLICHMAN. The 18th was Sunday. I believe I talked to Mr. Haldeman on the telephone about this. I think that the purpose of our call was really something else, some other business. And we discussed the fact of the break-in, the fact of Hunt's name being involved and McCord being involved, and so forth. He told me something about the statement which the Committee To Re-Elect people were putting out that day or the next day, I forget which. But I do recall we discussed the public statement that was going to be made on it.

On the 19th, which was Monday—

Senator BAKER. Wait a minute; just a second. Still on the 18th in your call to Mr. Haldeman, Mr. Haldeman was in effect the President's Chief of Staff?

Mr. EHRLICHMAN. Yes, sir.

Senator BAKER. Was there any conversation between you and Mr. Haldeman about how unfortunate or incredible or how dangerous this was? Was there anything other than a calm, ordinary exchange of information?

Mr. EHRLICHMAN. No; I think both of us wondered why in the world anybody wanted to break in there. That was the depths of the Democrats' fortunes. I don't think anybody believed that anybody in that particular office knew anything that was worth knowing.

Senator BAKER. Did you ask Mr. Haldeman if he had discussed this with the President?

Mr. EHRLICHMAN. No; I didn't.



Senator BAKER. Did you ask him if it had been brought to his attention of—if the President knew about it?

Mr. EHRLICHMAN. No; I am quite sure I didn't. That is not something that I would ordinarily put in that way to Mr. Haldeman.

Senator BAKER. Well, did you put it in any way to Mr. Haldeman?

Mr. EHRLICHMAN. No; I didn't believe so.

My assumption is that news of that kind gets to the President forthwith.

Senator BAKER. Well, did you ask what the President thought about it if you assumed that?

Mr. EHRLICHMAN. No, no.

Senator BAKER. All right, sir; go ahead.

Mr. EHRLICHMAN. I don't think I did anything else with relation to that subject matter on that Sunday. At least, I can't recall anything.

On Monday, I had a meeting with John Dean in midday, and we discussed this, really, in terms of two aspects. One was the White House involvement question, and I asked him to see if he could get that solved in short order—that is, was Hunt a White House employee or not, what was his status, and so forth? Because that was still lingering as an open question.

Second, it was obvious that this was going to be a campaign issue and I was concerned about knowing everything that I could know so that, when Ron Ziegler and the Presidential party got back to town, we would be in shape to sit down and talk about its implications in terms of its being a political issue.

Senator BAKER. Mr. Ehrlichman, it occurs to me, and I may be entirely wrong, but it occurs to me that if someone on my staff, even remotely on my staff, were charged with breaking and entering into the Democratic National Committee headquarters or someone was even associated with it in a newspaper column, that I would be determined to find out if that happened.

Now, was there this air of urgency in the White House on your part or Haldeman's part or Dean's part? Is it not coming through that way? It sounds like a routine staff operation. But this wasn't a routine staff operation.

Mr. EHRLICHMAN. Point 1, he wasn't on my staff. But that is beside the point.

I think there was a sense of the political implications of this thing. It was a dumb, shocking, unredeemable kind of thing for people connected with the Committee To Re-Elect to have done to the Democrats. There isn't any way of glossing it.

And certainly, the Democrats were going to exploit this if they possibly could. The fact that there might be a White House connection was really the central problem in this as far as I was concerned.

Senator BAKER. When did you first learn that this was orchestrated by people who were connected with the CRP?

Mr. EHRLICHMAN. Well, McCord was in it right from the first minute, and I am sure I learned of that connection on the evening news or some way, so that I knew right from the first day that there was a, literally a, CRP employee involved in this thing.

Senator BAKER. When did you find out that it was more than just a CRP employee?

Mr. EHRLICHMAN. I do not think that I—well, and, of course, Boggs' call said Hunt—Hunt, with a White House designation on the slip or the card or whatever it was. So there was that warning light on right from that moment.

I do not think I knew about Liddy and his involvement until after Dean reported back late on the 19th or early on the 20th, something like that time.

Senator BAKER. What did Mr. Dean report to you?

Mr. EHRLICHMAN. He reported to me that he had—I should go back to what I asked him to do and I guess I pretty well finished with that. I expressed my concern on these two fronts. And when he came back, he said he had talked to Liddy and that he had also talked to the people at the Justice Department or the police department, or somewhere, and had a feel for this thing. And he said, the Justice Department or the law enforcement people, anyway, were aware that this matter went beyond just the five fellows who were caught and that Liddy was involved and it was just a matter of time before he would be picked up, and that there was a further direct involvement of the CRP in this.

Senator BAKER. All right. That was on what, the 19th of June?

Mr. EHRLICHMAN. I believe it was either the close of business on the 19th or the next day.

Senator BAKER. Stop at that point, Mr. Ehrlichman. Let us explore, as the saying goes in this committee, that point in time. Let us see what you did with that information.

At that point, John Dean, who was counsel to the President, indicated to you that Liddy was involved, that others at the CRP were involved, and it would be just a matter of time before others were picked up and implicated, and broadly implied, based on your testimony just now, that the CRP was deeply involved in this situation.

What did you do with that information? Did you pick up the telephone and call the President, did you call Haldeman? What did you do with it?

Mr. EHRLICHMAN. I think by that time the President and the traveling party were on their way back. I believe that this meeting that was held on Tuesday morning was held at my instance and it involved Mr. Mitchell, the Attorney General, Mr. Haldeman, and me, and John Dean. And this was for the purpose of gathering as much information as possible at the top levels, and seeing what ought to proceed from that, what next step ought to be taken from that point forward.

Senator BAKER. Take the one part of my question that I put in several parts. Did any of you call the President or convey to the President the information that Liddy and others involved with the CRP were going to be involved and identified with the break-in to the Democratic national headquarters?

Mr. EHRLICHMAN. I did not, Senator. I am not sure whether this was imparted to the President by anybody else.

Senator BAKER. Well, Mr. Ehrlichman, to pursue that point just one step further, did you then know or have you since learned that as of June 19, 1972, someone did impart that information to the President—that is, that Liddy, McCord, Hunt, and others at the CRP were involved in the break-in?

Mr. EHRLICHMAN. I do not know that of my own knowledge.

Senator BAKER. Have you since learned it?

Mr. EHRLICHMAN. No, as I say, I do not have that knowledge.

Senator BAKER. What I am really driving for is the question I have put before, Mr. Ehrlichman, and I do not mean it to be an accusatory question. It is really a question calculated to produce relevant information. When did the President first know of CRP involvement in the break-in of the Democratic National Committee headquarters?

Mr. EHRLICHMAN. I am willing to speculate on that, Senator.

Senator BAKER. Sir?

Mr. EHRLICHMAN. I say I am willing to speculate on that.

Senator BAKER. Well, I do not want you to—you can if you like, but what I am after is what you knew and what you later learned about what the President knew?

Mr. EHRLICHMAN. I am not your best witness, because the President was out of town at that time and I was here. But my hunch is that over that weekend, Mr. Haldeman or Mr. Ziegler, as they routinely do, passed along the developing information on this matter.

Senator BAKER. And you don't have any later acquired information that confirms that hunch?

Mr. EHRLICHMAN. I don't think I do. I don't think I have ever asked what that specific—

Senator BAKER. You saw the President on the following day, the 20th, I assume?

Mr. EHRLICHMAN. Yes, sir.

Senator BAKER. What additional information did you have on the 20th of June?

Mr. EHRLICHMAN. I am not sure I had very much. I think the headlines on that day were featuring Mr. Hunt. The Democrats filed their lawsuit that day and it was a very muddled picture. It remained a muddled picture as to what really happened and who was responsible, and the CIA thing was beginning to be talked about around. These four defendants were identified as having had CIA ties. And frankly, I don't think anybody felt very confident of the information that they were beginning to acquire.

Senator BAKER. But in any event, you met with the President at some time on June 20, according to the log we have?

Mr. EHRLICHMAN. I did.

Senator BAKER. At 10:30 in the morning. Does that correspond with your recollection or your records?

Mr. EHRLICHMAN. That corresponds with my log, yes, sir.

Senator BAKER. Before I ask you the next question, describe for me the atmosphere and the attitude at the White House at this time. We are now 3 days beyond the Watergate burglaries; we are now at a place where there have been extensive newspaper accounts and television coverage; there has been an identification of major figures at the Committee To Re-Elect the President and their involvement; there have been arrests; there has been a civil lawsuit by the Democratic National Committee against the Republican National Committee—or the CRP, rather, not against the RNC. There have been really stupendous developments when you consider them in the context of an ongoing Presidential campaign. And you meet with the President at 10:30 in the morning 3 days later.

Now, tell me what you discussed with the President about Watergate.

Mr. EHRLICHMAN. I don't think we discussed very much, Senator.

Senator BAKER. You met for 55 minutes.

Mr. EHRLICHMAN. That is an anticlimax after the buildup of your question. But the fact is that at that particular point in time, there was not a whole lot certain. We can look back now through the telescope of hindsight and see a number of things that must have been apparent on the landscape. But what we really had for certain at that time was a kind of lingering concern because we did not know all the story. We could not pin down all the corners.

Senator BAKER. You knew that Liddy was involved?

Mr. EHRLICHMAN. Yes, sir, but we did not know where this Hunt trail led, for instance.

Senator BAKER. And you knew that Liddy was general counsel for the CRP?

Mr. EHRLICHMAN. And as far as—I will tell you my frame of mind. As far as I was concerned, if the trail led to the CRP, that was a manageable political problem. If the trail, on the other hand, led into the White House, then that was a much more critical problem. And I was actively concerned at that point in time because we could not pin that down and there were all kinds of suspicions and there was a lot of concern that maybe that is where that trail led.

Senator BAKER. And your testimony is that during that 55-minute conversation, beginning at 10:30 in the morning on June 20, 1972, that you and the President did not discuss Watergate?

Mr. EHRLICHMAN. Well, I do not have any record in my notes of that conversation—

Senator BAKER. Do you have any recollection of it?

Mr. EHRLICHMAN [continuing]. Of our having done so, and I have no independent recollection. And I do not think that is altogether unreasonable. There was not anything for sure that I was in a position to add to what was in his exhaustive news summary on his desk when he got to work that morning.

At the same time, we had had a meeting that morning of Mr. Mitchell and the Attorney General and Mr. Haldeman where we pretty much compared ignorances about this thing and agreed to part company and try to develop additional information.

Now, when I met with the President, it was for a specific purpose. I was about to come up to Congress to call on some Members of Congress, some Senators, to talk about legislation, and I needed some decisions and some marching orders from the President on that particular subject. And that was something that we could handle in that time frame.

Senator BAKER. Mr. Ehrlichman, do I understand that you did not know that tape recordings were being made of Presidential conversations at the White House during this period?

Mr. EHRLICHMAN. That is true.

Senator BAKER. And that you since have learned that that is the case?

Mr. EHRLICHMAN. I have.

Senator BAKER. In the meeting with the President, was anyone present other than you and the President?

Mr. EHRLICHMAN. Not according to my logs.

Senator BAKER. Where was the meeting held?

Mr. EHRLICHMAN. In his office.

Senator BAKER. In the EOB or in the Oval Office?

Mr. EHRLICHMAN. I would have to check.

Senator BAKER. Would it have been in one or the other?

Mr. EHRLICHMAN. It would have been one or the other.

Senator BAKER. Do you have any reason to believe that that conversation would not be recorded on those tapes?

Mr. EHRLICHMAN. I have no way of knowing, Senator.

Senator BAKER. I think I saw you on television the other day on an interview say that you hoped or you thought the President ought to release those tapes. Do you think that the access to those tapes to this committee would aid and assist in the evaluation of this testimony?

Mr. EHRLICHMAN. I do not know, Senator. I do not know what you saw on television. I did not see that show. [Laughter.]

I just gave it. What I intended to say—

Senator BAKER. It is double jeopardy, you know, to do and to see.

Mr. EHRLICHMAN [continuing]. What I intended to say was that as far as I am personally concerned, I would have no objection, because I do not have anything to worry about in terms of what is liable to be in them in this setting.

Now, the President has much heavier concerns and obviously, a much broader area of responsibility. I am just looking at it from my own narrow personal standpoint and he has to call this from the standpoint of the Presidency.

Senator BAKER. Mr. Ehrlichman, thank you very much. My time has almost expired and there is a vote signal on the clock. I want to ask you one last question, if I may, and I will reserve the balance of my questions until I have another opportunity.

Is there the slightest doubt in your mind that as of that meeting with the President on June 20, 1972, based on your knowledge of the newspaper accounts, the television coverage, and your understanding of the White House staff procedures whereby the President was briefed on current affairs; through a compilation of press dispatches, the supplying of newspapers, magazines, periodicals, and the like, is there the slightest doubt in your mind that the President, on June 20, 1972, did not know that major and significant officers and employees of the CRP had been apprehended in connection with the surreptitious entry of the Democratic National Committee headquarters?

Mr. EHRLICHMAN. I do not know about major officers, because I do not know whether he knew about Liddy at that point in time.

Senator BAKER. Or McCord?

Mr. EHRLICHMAN. I am sure he must have known about McCord.

Senator BAKER. McCord was security officer. We are haggling over terms.

Mr. EHRLICHMAN. Sure.

Senator BAKER. Is there any doubt in your mind that he knew at that time?

Mr. EHRLICHMAN. No.

Senator BAKER. So the question, what did the President know and when did he know, can be answered in part that he must have known on June 20 that certain major figures were involved?

Mr. EHRLICHMAN. He certainly must have known it was in the news.

Senator BAKER. Before I get back for my other round of questions when my other colleagues complete theirs, I want to have you search your memory for any information you can give me about what the President knew, if anything, prior to June 17 or June 20, 1972. As the chairman pointed out in the lightning bug theorem, sometimes hindsight is better than foresight. I would like you to examine what you know now as distinguished from what you may have suspected then. I want to know—as best you can help me discover what the President knew and when did he know it.

Mr. EHRLICHMAN. Prior to the 17th of June?

Senator BAKER. Yes.

Thank you, sir.

Senator ERVIN. Mr. Wilson, tomorrow I get another turn and I will give you an opportunity to tell me why this statute has any relation to this matter. I am frank to state as a lawyer that I do not think it has any more to do with this than the flowers that bloom in the springtime and I want to give you an opportunity to convince me of the error of my ways, if they are wrong.

Mr. WILSON. Thank you for the opportunity, sir. I shall take advantage of that.

Senator ERVIN. The committee will stand in recess until 10 o'clock in the morning, unless some member objects.

[Whereupon, at 5:10 p.m., the hearing was recessed, to reconvene at 10 a.m., Wednesday, July 25, 1973.]



WEDNESDAY, JULY 25, 1973

U.S. SENATE,  
SELECT COMMITTEE ON  
PRESIDENTIAL CAMPAIGN ACTIVITIES,  
*Washington, D.C.*

The Select Committee met, pursuant to recess, at 10:15 a.m., in room 318, Russell Senate Office Building, Senator Sam J. Ervin, Jr. (chairman), presiding.

Present: Senators Ervin, Talmadge, Inouye, Montoya, Baker, Gurney, and Weicker.

Also present: Samuel Dash, chief counsel and staff director; Fred D. Thompson, minority counsel; Rufus L. Edmisten, deputy chief counsel; Arthur S. Miller, chief consultant; Jed Johnson, consultant; David M. Dorsen, James Hamilton, and Terry F. Lenzner, assistant chief counsels; R. Phillip Haire, Marc Lackritz, William T. Mayton, Ronald D. Rotunda, and Barry Schochet, assistant majority counsels; Eugene Boyce, hearings record counsel; Donald G. Sanders, deputy minority counsel; Howard S. Liebengood, H. William Shure, and Robert Silverstein, assistant minority counsels; Pauline O. Dement, research assistant; Eiler Ravnholt, office of Senator Inouye; Robert Baca, office of Senator Montoya; Ron McMahan, assistant to Senator Baker; A. Searle Field, assistant to Senator Weicker; Michael Flanagan, assistant publications clerk.

Senator ERVIN. The committee will come to order.

I understand that Mr. Wilson wishes to address the committee on the legal question I was discussing with Mr. Ehrlichman and Mr. Wilson yesterday, and without objection on the part of any member of the committee, I will extend to him an opportunity to do so at this time.

Mr. WILSON. Thank you, Mr. Chairman.

I want to say sincerely I am very grateful to you for giving me this opportunity. I have a feeling you have your own thoughts about this, and this may turn out to be an exercise in mental calisthenics but it will be fun anyway.

I cannot quote the Bible like you can but I am reminded of the high school physics anomaly and what happens when the irresistible force meets an immovable body, and I do not know which is which at the moment. Thank you, Senator.

Now seriously, if I may, in connection with section 2511, our exchange yesterday was so rapid that I was not able to get across to you the genesis of my thinking. To me, 2511 is a symbol. I would not rely upon 2511 as a source of power. It is a recognition of the possibility of a source of power, and I want to make a distinction immediately between domestic security because I want to take my text from the Supreme Court's decision of last year in the case which has been variously called the *Keith* case because it involved a mandamus against



Judge Keith in the Eastern District of Michigan, or the *Plamdon* case, because he was the principal of three conspirators in that action.

The case formally is known as *United States, petitioner v. the U.S. District Court for the Eastern District of Michigan*. It is found in 407 United States, and 92 Supreme Court. I am sure the chairman and maybe all members of the committee have a familiarity with this decision. It is a tremendous decision written by Mr. Justice Powell with concurring opinions by Mr. Justice Douglas and Mr. Justice White.

Now, the state of the law today is that the point which I am arguing has not yet been passed upon by any court that I know of, but the Supreme Court has left the question wide open, if you please. I thought I had before me, and I do not want to take too much time because I promised Senator Talmadge that I would not take more than 20 minutes to get through this because I am usurping his time at the moment, but there is a Senate report, 1096, I think it is, on the Safe Streets bill of 1968 of which 2511 is a portion and, of course, as far as the chairman is concerned, I know that this is old hat to him, but there is in the report a section on national security which recognizes a reservoir of power in the President of the United States with respect to foreign intelligence, foreign leaks, this sort of thing.

Now, I anticipated that if anybody has inquired into some of the things which I have done in the practice of the law, 21 years ago I was in the *Steel Seizure* case. I filed the first suit on behalf of Youngstown Sheet & Tube, and the case today bears the name of my client. In that case I fought vigorously against the inherent power of President Truman to seize the coal mines. We were met with the defense, and I had a good deal to do with the argument before Judge Pine which was the decisive, first decisive opinion, I carried the whole matter to the Court of Appeals for a day or two, whatever it took, and then there were 35 of us lawyers who wanted to argue in the Supreme Court and we all agreed upon Mr. John W. Davis, who I would call the greatest, and the Supreme Court, as you know, sustained our contention, that there was not a package of inherent powers in President Truman to make that seizure.

Now, this case is unlike that case because there is a reservoir of constitutional power recognized at least hypothetically by the Congress, by your own committee, sir, by the bill which was passed.

In the *Keith* or *Plamdon* decision, both Senator McClellan who, I believe, was the chairman of the Judiciary Committee and Senator Hart, were quoted in their debates on the floor, and they make it plain that section 2511 was not intended to restrict or extend the power of the President. It was simply a reserving clause with respect to whatever power he had.

Now my proposition is, and I want to come to the *Plamdon* case, my proposition is, succinctly stated, on the basis of my reading of the Supreme Court's decision in the *Plamdon* case is that in a domestic security case, and that was that case despite the fact that Plamdon bombed the CIA headquarters in Chicago, it was treated by the Supreme Court time and time again as a domestic security case, and I do not have to rely upon inferences when I tell you that the Supreme Court said: "We are not passing upon the power of the President with regard to foreign intelligence."

Now, the proposition that I am offering to you and other members of the committee, if you please, sir, is that while it has been settled in the *Plamondon* case that for domestic security purposes the fourth amendment rear its protective head and despite whatever may be the constitutional power of the President, he must apply for a prior judicial action in order to carry out wiretapping of a domestic security case.

As you well know, and as other members of the committee who are students of constitutional law know, that I am not sure he was the first one to say this but Mr. Justice Douglas calls the fourth amendment the warrant clause and he does what I think all scholars do in this area and I am poll-parroting him, did I get that out right, I am not sure, in that the warrant clause seems to be a clear part of the preceding provision in the same article for there shall not be any unreasonable searches and seizures.

Also you know seizures which are reasonable may be done. You know, of course, that the warrant clause does not always apply to searches and seizures. You know that an arrest by a police officer of a felony on the probable belief that a felony was committed where he arrests a man inside his house, he may search the house or the immediate vicinity of where the arresting man is. He does not have a warrant. He did not have the warrant for the arrest, he did not have the warrant for the search, so there is some incursion upon the idea of searches and seizures. But coming directly to how I read the *Keith* or *Plamondon* case, and it is extremely interesting that I don't remember ever reading before that the Supreme Court would call upon the oath of the President in the second article of the Constitution, the fourth clause as a source of power. As you know, it says to preserve, protect, and defend the Constitution of the United States, and I have not found, perhaps the chairman is way ahead of me on this, I have not found any case where a source of Presidential power has been drawn from the language of the oath. But whether it has before or whether it has not, the imprimatur of the Supreme Court through Justice Powell has now been put upon the language of the oath as a source of power, and it is a source of power, as the Court says, and I will read the beginning of this paragraph:

We begin the inquiry by noting that the President of the United States has the fundamental duty under Article II, Section I of the Constitution "to preserve, protect and defend the Constitution of the United States." Implicit in that duty is the power to protect our government against those who would subvert or overthrow it by unlawful means.

And it goes on to say in the exercise of that power the Attorney General may be authorized to authorize permissions to tap wires.

Now mind you this case ends up with the result that because the tapping in this case, with the approval of the Attorney General, and on the basis, let's say, of the philosophy of 2511, the Supreme Court said that because it involved domestic security it did not abrogate, supersede or otherwise lay aside the fourth amendment. But the question is wide open, if you please, as to whether, in the case of foreign intelligence, the cloak of the fourth amendment wraps itself around the President and requires prior judicial action.

Now, 2511 has had the effect of saying that in certain instances mentioned therein the President will not violate the wiretapping law by

proceeding to tap for purposes stated in there. It goes on to say that the taps which are obtained are admissible in evidence and are not subject to the—I am adding this—are not subject to judicial attack.

Now the Supreme Court in the *Plamondon* case——

Senator ERVIN. Isn't that the same case as *United States v. United States District Court*?

Mr. WILSON. I gave it a few minutes ago as being the formal citation. I didn't want to have to say that every time I cite the case.

Senator ERVIN. Yes, I don't like to have to use that hard-to-pronounce surname.

Mr. WILSON. You and I are thinking about the same case.

Senator ERVIN. Yes, sir.

Mr. WILSON. Now, nobody can dispute me on one point, and I am sticking my neck way out, that the Supreme Court reserved the question of the use of the reservoir of, a possible reservoir, let me put it that way, of constitutional power reposed in the President to violate the law in respect of foreign intelligence, foreign espionage, foreign collaboration. That is in here. I can turn a half dozen times to Justice Powell's position in making it clear that he was not deciding that question.

Now, my position is that if there is this reservoir of power, and your own committee, sir, in reporting out the Safe Streets Act bill in 1968 was willing to give an indication that there existed a reservoir of power for the purpose of, what I say, and this is my language, for the purpose of permitting the President to otherwise—to do what would otherwise be a crime, to protect the Nation against foreign intelligence and for the purpose of obtaining foreign intelligence.

Now, I know I am open to the attack, well, can he shoot somebody on the street, I am not going that far, and that is driving myself to a conclusion ad absurdum. As you know, as you all know, wiretapping is a form of invasion of the premises of the person who is overheard, and in the *Katz* and *Berger* cases, with which I am sure all of you are familiar, the Supreme Court has said now in this sophisticated age wiretapping is another kind of invasion of the privacy and premises of the man whose conversation is being bugged, so to speak.

So that we have squarely—we are not driving this problem any further today than saying that it is not a silly proposition. Mr. Chairman, you didn't call it silly, you maybe feel it was but you didn't say it—it is not a silly proposition for us to contend that an entry into the psychiatrist's office under grounds which would technically state burglary, because there is no Federal crime in that respect, is no different from an entry through his telephone system, and if your committee—and by your committee, I am not speaking of this august body, I am speaking of another august body, that is the Judiciary Committee, and I don't find that you sir, or anyone else dissented from the philosophy of the report of the Senate which went out on the floor in support of that bill, that there is very likely a reservoir of constitutional power unlike the steel case, in the President in the matter of national security. That is the reason, sir, that I was so bold yesterday, and I want to apologize for what might have been a rude interruption, when I asked you to read the latter part of the first sentence or to protect national security information against foreign intelligence activities.

This is the kind of thing which I pick out of the symbol of 2511, lay it on top of the *Plamdon* case, and say that today there is no one living, indeed there is no one in this room, who can assert with categorical certainty that the President of the United States does not have the constitutional power to cause the entry under what would be otherwise illegal circumstances in pursuit of foreign intelligence, and I say again without fear of contradiction, that we are entitled to consider when we get to that point, that the fourth amendment may have vanished from the scene.

I think I must be running close to my 20 minutes, and I am like you are, Mr. Chairman, I don't want to trespass upon it. I do have some very excellent phrases from Justice Powell's decision. Let me just conclude by quoting one from a section in the opinion which has Roman numeral IV:

We emphasize before concluding this opinion the scope of our decision as stated. At the outset this case involves only the domestic aspects of national security. We have not addressed and express no opinion as to the issues which may be involved with respect to activities of foreign powers or their agents.

There is a footnote that is interesting: "For the view that warrantless surveillance, though impermissible in domestic security cases, may be Constitutional where foreign powers are concerned." See *United States v. Smith* in a Fed. Sup. case decided in 1971, and a treatise, I am adding the word "treatise", by the American Bar Association Criminal Justice Project Standard relating to electronic surveillance in February 1971. See also *United States v. Clay* in 430 F. 2d 165.

Thank you, Mr. Chairman.

Senator ERVIN. Well, Mr. Wilson, I have enjoyed your argument. I have long known you to be one of the Nation's truly great lawyers, and I would like to say, I am sort of a country lawyer myself and sometimes I get sort of emphatic in the statement of my views, because I have never been able to straddle fences very well.

I agree with your interpretation of the case of *United States v. U.S. District Court*. In this case, the Government was taking a position which was long maintained by former Attorney General Mitchell, that the President had inherent power to exercise surveillance without a warrant from any court in respect to protecting against domestic subversion. And, of course, in the case you referred to, the Government took the position that section 2511.3 argued that except in national security surveillance, this warrant requirement, the Congress recognizes the President's authority to conduct such surveillances without prior judicial approval. Justice Powell said section 2511.3 can find no power as the language is wholly inappropriate for such a purpose. It merely provides that the act shall not be interpreted to limit or disturb such powers as the President may have under the Constitution.

Then his ultimate decision was and we therefore find the conclusion unacceptable that Congress intended to make clear that the act simply did not legislate with respect to domestic security surveillances.

I served on the Judiciary Committee when section 2511 of title 18 was drawn, and of course, if we had not put this in there, the same thing would have resulted, because Congress could not take away any constitutional powers of the President. So they put that in there because there was a controversy between some members of the committee having an opinion that the President almost has powers that would

make an eastern potentate turn green with envy, and some people, like myself, on the committee felt that the Constitution limits and defines the powers of the President.

Some people believe in a doctrine of inherent powers. I do not believe the President has any power at all except such as the Constitution expressly gives him or such as are necessarily inferred from the expression of those powers. I think the Constitution was written that way to keep the President and, of course, the Congress, from exercising tyrannical power.

While I do not agree that this case has any application whatever to the situation—I agree with you that it has no application whatever to the situation. They discuss it. But where you and I part company is on the facts.

I think we have a rather anomalous situation here. Here was the Government—they were not prosecuting Ellsberg through the agents of the Department of Justice for giving papers to Russia. They were just merely charging him with stealing some papers that belonged to the Government, as I recall. And here were some employees of the White House that go out and for some strange reason, I guess they did not trust the Justice Department to do the prosecuting all by itself. So they decided they ought to go and try to steal some documents from the doctor of a man who was being prosecuted for stealing from the Government, which is quite a peculiar situation, really.

Now, I cannot see the slightest relationship between Dr. Fielding's, I believe his name was, notions of the mental state of Daniel Ellsberg and foreign intelligence activities. The only activity I think the doctor was engaged in was trying to determine what the mental state of his patient was. He was not engaged in any foreign intelligence activities, and I think—this is my interpretation of the Constitution—I think that the emissaries that were sent out there for the plumbers to try to steal the doctor's notes were domestic subversion and not in defense of this country against foreign intelligence activities.

Now, I think your steel case, which I think is one of the remarkable cases, they held in that case, and I am sure largely on the basis of a very persuasive argument that you made, that the President, even though the United States was engaged in war in Korea and needed steel in order that the men fighting that war might have weapons and munitions, and even though industrial disputes were about to close down the source of that steel; namely, the steel plants, they held that the President of the United States did not have any inherent power under the Constitution to seize steel mills for the purpose of securing a flow of munitions and weapons to American soldiers locked in battle with a foreign force. And I think that is pretty persuasive authority, if that is so.

If the President does not have any inherent power under the Constitution to seize steel mills in order that he might carry on a war and furnish the weapons and munitions that will enable the soldiers to fight and prevent the destructions of themselves at the hands of the enemy, I think that is authority that if the President would have no inherent power to seize steel mills in time of war to carry on the war, he has no inherent power to steal a document from a psychiatrist's office in time of peace.

Mr. WILSON. Mr. Chairman, may I have 2 minutes? Pardon me, Senator Baker.

Senator BAKER. If I may, Mr. Wilson, before you respond, and I will be glad to yield. Before you do, Senator Talmadge has agreed to yield for 2 minutes so I can inject some thoughts into this.

Senator TALMADGE. I am delighted to yield to my friend from Tennessee.

Senator BAKER. I would like to suggest one or two more points that you might like to reply to when you do reply to the statement of the chairman, if that is agreeable.

Mr. WILSON. Yes.

Senator BAKER. To begin with, the chairman is fond of pointing out from time to time that he is just a country lawyer. He omits to say that he graduated from Harvard Law School with honors. [Laughter and applause.]

Senator ERVIN. If the Senator from Tennessee will yield, I would like to say a word in my own defense on that point. [Laughter.] I had a friend introduce me to a North Carolina audience. He said he understood that I was a graduate of Harvard Law School, but by God, nobody would ever suspect it. [Laughter.]

Senator BAKER. I am also reminded, Mr. Chairman, by this really remarkable colloquy between Mr. Wilson, a distinguished attorney, and the chairman, a distinguished lawyer, of the case that a young lawyer argued before the U.S. Supreme Court, his first one, and he argued very eloquently and persuasively. The Chief Justice said, "young man, that is not the law." And the young fellow said, "well, it was the law until Your Honor spoke."

So, really, it seems to me that both of you have identified a basic and fundamental element of this colloquy. That is, the court has not spoken on the theorem to which you address your attention.

That, then, launches me into two or three other things that I would like to suggest for your consideration. There is no doubt in my mind that there is the doctrine of implied power—implied power of the Presidency in certain respects that I shan't enumerate at this time, and implied powers of the Congress. This committee sits by reason of implied powers. There is no reference in the Constitution to the authority of a congressional committee to conduct this investigation, but the power is clearly ancillary and necessary to the functioning, to the intelligent functioning of a legislative body—that is, the inquiry into a factual situation and a predetermination of the desirability or the undesirability of legislative remedies. So the doctrine of implied powers appears clear.

The question is how they are implied, to what extent, and what do they say? If we address ourselves carefully to the proposition that Mr. Wilson suggests, that there is a reservoir of power in terms of national security, not spelled out with particularity in the Constitution but necessary as an aid to the functioning of the Presidential role as Commander in Chief and as Chief Executive Officer of the Government, and that they include an abridgement, if you please, for the fourth amendment in the event that the national security role applies, then it seems to me that traditional and ordinary rules of construction require us, first, to look at the four corners of the document, which is a fairly cavalier way to refer to the charter document, the Constitution, to look at the Constitution and all the amendments to see where and what from source, what amendment, such a power might flow.

And if we might find conflict, as your theorem suggests, between the inherent power of the Commander in Chief or the Chief Executive of the Government to protect the national security vis-a-vis foreign activity, we have a further responsibility under the doctrine of the Constitution to reconcile the inherent conflict, the role of the Commander in Chief and the requirements of national security and the fairly explicit and direct requirements of the fourth amendment of the Constitution, to reconcile them as we can, just as we try to reconcile the apparently conflicting testimony of witnesses who appear before this committee. And if we can't reconcile them, then we resort to the most logical influences we can to determine what the authors have decided, the document construction itself. You determine legislative history only if the document will not speak unambiguously for itself.

That, then, finally leads me to the question I would like to put. It seems to me that we have a factual question here. It's entirely possible to construct an attractive legal theorem that the President does or does not have this inherent authority, this reservoir of power, in terms of national defense. It is entirely possible to construct a theorem that that does not exist and endure in the fact of a contravening amendment, as Senator Ervin indicates.

But don't we have to test both of those theorems against a range of factual situations. Would it not be appropriate, then, to test, since the Court has not spoken on the subject, to test this by saying could the President authorize a trespass which otherwise would be a criminal trespass against the property of a person, as to whether or not a legislative proposal had leaked to the press; or would the President be authorized to do such things if they had reason to believe that preliminary planning for foreign policy formulation was in jeopardy of disclosure; or would the President have such activity if he believed that a signal communication system, for instance, for a foreign power was about to initiate a preemptive nuclear strike against the United States?

Now, the theorem would apply to all three situations, but the factual situation would be very different, it seems to me, and the Court in construing this situation might look at it very differently. It would call to a varying degree on his authority to protect this Nation against invasion, whether by troops or by nuclear weapons, or to guarantee the privacy and the integrity of private premises and functions.

So if we do apply a range of factual situations to this theorem, how does it wear? How durable is it? How sensitive is the Ervin theorem or the Wilson theorem to the application of these several factual situations and thus how does that aid us in arriving at a logical solution of the problem?

Ultimately, I suppose, a court will have to decide that. But until a court does, this committee has the ongoing and further responsibility to examine it according to present law, which is uncertain. And therefore, isn't the central fact issue "probable cause?" That is, what basis, what basis was there for believing that there was a foreign security threat before the Wilson theorem would apply, even in opposition to the Ervin theorem? So aren't we confronted with what we have been confronted with more or less throughout these hearings? And that is, what do the facts show? What's the reasonable basis for believing that a national security problem existed and of what gravity before we can apply ourselves to the abstract theorem of law.

Senator ERVIN. If Senator Talmadge will indulge me, I will make one more observation and then subside. I would like to argue, but I am not going to, that you can't apply power that contradicts a provision. But that is not my point. I don't believe Mr. Ehrlichman conceded that the President of the United States was the man who ordered this burglary. I thought this burglary was carried out by Mr. E. Howard Hunt and I don't think Mr. E. Howard Hunt has any implied or inherent power in the Constitution of the United States to commit burglary.

Senator BAKER. Mr. Chairman, just so the record is clear, in the description of the legal dilemma we find ourselves in, I hope we do not imply that the President authorized this. I will stand on whatever the record develops to that respect and that was certainly not the implication. I simply state that to direct the attention of the chairman to the——

Senator ERVIN. I would like to put this document in the record.

#### TITLE 18 U.S.C. 2511

##### § 2511. INTERCEPTION AND DISCLOSURE OF WIRE OR ORAL COMMUNICATIONS PROHIBITED

(1) Except as otherwise specifically provided in this chapter any person who—  
 (a) Willfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire or oral communication ;

(b) Willfully uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when—

(i) Such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication ; or

(ii) Such device transmits communications by radio, or interferes with the transmission of such communication ; or

(iii) Such person knows, or has reason to know, that such device or any component thereof has been sent through the mail or transported in interstate or foreign commerce ; or

(iv) Such use or endeavor to use (A) takes place on the premises of any business or other commercial establishment the operations of which affect interstate or foreign commerce ; or (B) obtains or is for the purpose of obtaining information relating to the operations of any business or other commercial establishment the operations of which affect interstate or foreign commerce ; or

(v) Such person acts in the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States ;

(c) Willfully discloses, or endeavors to disclose, to any other person the contents of any wire or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire or oral communication in violation of this subsection ; or

(d) Willfully uses, or endeavors to use, the contents of any wire or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire or oral communication in violation of this subsection ;

shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

(2) (a) It shall not be unlawful under this chapter for an operator of a switchboard, or an officer, employee, or agent of any communication common carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the carrier of such communication : *Provided*, That said communication common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks.



(b) It shall not be unlawful under this chapter for an officer, employee, or agent of the Federal Communications Commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the Commission in the enforcement of chapter 5 of title 47 of the United States Code, to intercept a wire communication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained.

(c) It shall not be unlawful under this chapter for a person acting under color of law to intercept a wire or oral communication, where such person is a party to the communication or one of the parties to the communication has given prior consent to such interception.

(d) It shall not be unlawful under this chapter for a person not acting under color of law to intercept a wire or oral communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State or for the purpose of committing any other injurious act.

(3) Nothing contained in this chapter or in section 605 of the Communications Act of 1934 (48 Stat. 1143; 47 U.S.C. 605) shall limit the constitutional power of the President to take such measures as he deems necessary to protect the Nation against actual or potential attack or other hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities. Nor shall anything contained in this chapter be deemed to limit the constitutional power of the President to take such measures as he deems necessary to protect the United States against the overthrow of the Government by force or other unlawful means, or against any other clear and present danger to the structure or existence of the Government. The contents of any wire or oral communication intercepted by authority of the President in the exercise of the foregoing powers may be received in evidence in any trial hearing, or other proceeding only where such interception was reasonable, and shall not be otherwise used or disclosed except as is necessary to implement that power.

Mr. WILSON. May I reply?

In this, to Senator Baker, in bible, this pamphlet on the *Plamondon* case, Justice Powell puts a footnote that it is difficult sometimes to find the line between domestic security and foreign security. National security is a broad word. It is a misleading word in itself, because national security might envelop both. But he recognizes that—to try to answer both of you with this one answer—that is that as Senator Baker puts it, is probable cause. That is as good a name for it as anything. I think if you will go back to my symbol, 2511, you will see that the chairman's Committee on the Judiciary reposed in the President his own absolute discretion by use of the words, "He deems necessary to protect the Nation." So that I am arguing that when it comes to the exercise of this reservoir of power in a foreign intelligence case, and I want to come to the facts for a moment on that quick, that in that case, it is the President's discretion which is to be guided.

Now, there is testimony here by Mr. Ehrlichman that the Russians either had or were getting this information. Now, this isolation that the chairman puts Mr. Ellsberg and his psychiatrist in is, I submit—I am looking for a general adjective, Mr. Chairman. I would say that it is unfair for you to do that, if you will forgive the briskness of that observation.

The genesis of this was either the fact that the papers that were passed to the Russians or that there was reasonable ground to be, probable cause, Senator Baker, to believe that they were going to the Russians. Now, this puts a cap of foreign intelligence, not even an umbrella, a complete cloak upon this whole transaction?

I want to end by reading what the Judiciary, with no dissent from the chairman, whom I respect very greatly and I wish to return the compliment to him, I think he is one of the greatest, the following under the head of national security:

"It is obvious that whatever means are necessary"—this is the Senate's language, Senate committee's language—

It is obvious that whatever means are necessary should and must be taken to protect the national security interest. Wiretapping and electronic surveillance techniques are proper means for the acquisition of counterintelligence against the hostile action of foreign powers.

Next sentence:

Nothing in the proposed legislation section to disturb the power of the President to act in this area.

And the final sentence:

Limitations that may be deemed proper in the field of domestic affairs of a nation become artificial when international relations and internal security are at stake.

Mr. Chairman, may I end with a respectful quip about the country lawyers? I have a story, too.

I was testifying before Senator Dirksen's committee one time on the Trading with the Enemy Act, and one of the distinguished lawyers from Senator Baker's State—Mr. Cecil Simms; I imagine you know him, gentlemen—was testifying against me. He started out by saying, "I am just a country lawyer." Well, of course, he was smart as a whip. When he said that, I said, "I have always been scared of anybody who describes himself as a country lawyer." And Senator Dirksen, in his lovable way, said, "Mr. Wilson, I have seen you pounding the asphalt of the streets of Washington for the last—I don't know how many years; maybe 35—and I don't think anybody would ever charge you with being a country lawyer."

Senator ERVIN. The temptations to trespass on time of the committee is very great, but I will refrain, and when my turn comes around next, I will make some more observations on that point.

Mr. WILSON. May I have a rebuttal then?

Senator TALMADGE. Thank you, Mr. Chairman.

Mr. Ehrlichman, following up the same line of thought, I believe you testified yesterday that the President has the power to authorize an inherent break-in in matters concerning national security; was that your testimony?

#### TESTIMONY OF JOHN EHRLICHMAN—Resumed

Mr. EHRLICHMAN. I do not think I can add very much to the much more learned discussion this morning, Senator, but I was referring to this body of law that has been discussed here this morning.

Senator TALMADGE. Your answer is in the affirmative, is that correct?

Mr. EHRLICHMAN. Yes, sir.

Senator TALMADGE. Now, in matters involving national security, could the President authorize a forgery?

Mr. EHRLICHMAN. Well, again, you are getting me into an area that obviously is a subject for the experts, and as Mr. Wilson pointed out this morning, the question of degree here can be carried to un-

reasonable lengths, and I am not prepared to answer where that line is. It is obviously a judicial question.

Senator TALMADGE. You do not think he could authorize murder, do you?

Mr. EHRLICHMAN. I do not—as I say, I do not think I am the one to try to respond to that kind of question as to where the line is.

Senator TALMADGE. Well, you authorized the break-in, did you not? I was—I was trying to—

Mr. EHRLICHMAN. No, sir, I did not.

Senator TALMADGE. You affirmed it yesterday in a memorandum that I saw; you said it was your signature provided it could not be traced.

Mr. EHRLICHMAN. No, sir, I submit that that is not what that memorandum says.

Senator TALMADGE. Where is the document?

Mr. EHRLICHMAN. What that memorandum says is that the investigation which had previously been authorized by me should also include an attempt to ascertain the contents of these files. There is nothing in there about the means to be pursued, and my testimony was, and continues to be, that my assumption was that that could be done by completely conventional investigatory means.

Senator TALMADGE. I will read the language “covert operation to be undertaken to examine all of the medical files still held by Ellsberg’s psychiatrist.”

How do you think you could examine all the medical files without a break-in?

Mr. EHRLICHMAN. Well, it has occurred to me since, because I have been asked this question before, that one way that it could be done is through false pretenses, or through perfectly honest [laughter] means, one doctor to another, by recruiting the assistance of another psychiatrist or of a doctor or of a—someone who could get at them that way.

Senator TALMADGE. I do not think there is—

Mr. EHRLICHMAN. I am not a trained investigator, Senator, and what I know from my own experience is that people who are investigators, as I mentioned yesterday, insurance adjusters, people of that kind have over the years brought to attorneys information of this kind which they have been given the assignment of gaining. It simply was not in contemplation that a break-in as such, would be engaged in.

Senator TALMADGE. I do not think there is my need in rehashing all of that, you covered it yesterday; but you did state that you approved it if “done under your assurance that it is not traceable.” Do you affirm that?

Mr. EHRLICHMAN. Approved what, Senator?

Senator TALMADGE. The covert operation to be undertaken to examine all of the medical files still held by Ellsberg’s psychiatrist.

Mr. EHRLICHMAN. I explained yesterday, Senator, that my concern there, and the thing to which that handwritten note refers, is that I was not keen to have anyone go out and be flashing White House credentials as a White House investigator, and I think that was sound.

Senator TALMADGE. Now, if the President could authorize a covert break-in, and you do not know exactly what that power would be limited, you do not think it could include murder or other crimes beyond covert break-ins, do you?

Mr. EHRLICHMAN. I do not know where the line is, Senator.

Senator TALMADGE. Where is the check on the Chief Executive's inherent power as to where that power begins and ends? That is what I am trying to determine.

Mr. EHRLICHMAN. Well, again, I would have to incorporate by reference, I think, the very valuable discussion that has taken place here this morning. I could not add to that.

Senator TALMADGE. You are a lawyer, and I understand you are a good one.

Mr. EHRLICHMAN. Well, I am certainly not a constitutional lawyer, Senator. Far from it.

Senator TALMADGE. Do you remember when we were in law school, we studied a famous principle of law that came from England and also is well known in this country, that no matter how humble a man's cottage is, that even the King of England cannot enter without his consent.

Mr. EHRLICHMAN. I am afraid that has been considerably eroded over the years, has it not?

Senator TALMADGE. Down in my country we still think it is a pretty legitimate principle of law. [Applause.]

Now, you authorized this in the name of national security, I believe.

Mr. EHRLICHMAN. We believe that we had a serious national security problem at that time; yes, sir.

Senator TALMADGE. What relationship did Dr. Fielding have with national security?

Mr. EHRLICHMAN. Well, the CIA has perfected a technique, as I understand it, and again I am not your best witness on this, in which they can find out a lot about a foreign agent, a foreign official, someone who is the object of their investigation through the device of what they call a psychiatric profile. Two people in this special unit, Mr. Young and Mr. Hunt, had both had experience with the use of these profiles in the past, and they felt strongly that in this case, where there were so many unknowns, we did not know whether we were dealing here with a spy ring or just an individual kook, or whether we were dealing with a serious penetration of the Nation's military and other secrets, in such an uncertain situation that a profile of this kind might, certainly not positively, but might, add some important additional ingredient which would help to understand the dimensions of the problem.

Senator TALMADGE. You do not think—

Mr. EHRLICHMAN. Sir, I cannot vouch for this. I have a kind of an inherent personal doubt about the psychiatry in general, but I cannot second-guess. I cannot second-guess the investigation experts who have used this technique; and, as I say, the CIA maintains a staff, and they do this thing on a regular basis, and it is used in our Government.

Now, I understand from testimony before the McClellan committee that the CIA's position is that they have not ever used it before in a case of espionage involving a U.S. citizen. I do not know whether that is so or not. But in any event, the people involved here were very concerned about what they were dealing with, and they felt that this would be a helpful technique.

Senator TALMADGE. You did not think that Dr. Fielding was a security risk to the country, did you?

Mr. EHRLICHMAN. Of course not, no. The identity of the individual here had nothing to do with it, the doctor. The CIA had prepared a

psychiatric profile, and it was not helpful, and when Mr. Young went back to the CIA and said, "This is not helpful," they said, "Well, we do not have enough raw material to go on. You are going to have to get us some more factual information," and so this was then an expansion of the original covert investigation of this individual and his coconspirators and his pattern and how he got these documents and so on, to include the assemblage of such other information as might be helpful to the CIA in finishing this psychiatric profile project.

Senator TALMADGE. Let me give you a similar situation and see how you would compare it. Suppose someone you knew to be subversive had rented a lockbox in one of the banks here in Washington and had put some suspected documents in that lockbox, involving the national security. Do you think that would give you the authority to rob that bank and go in there and take those documents?

Mr. EHRLICHMAN. I have not any idea what the extent of such a power would be.

Senator TALMADGE. Do you not think it is a good comparison?

Mr. EHRLICHMAN. No, I do not think it is a good comparison, sir.

Senator TALMADGE. You look in the medical record in one instance, and I am telling you there were some documents in a bank that might really involve national security.

Mr. EHRLICHMAN. Yes, but you have not put the case where we are going to rob the bank. I do not think anybody, at least I certainly did not contemplate that anybody was going to rob the doctor.

Senator TALMADGE. I will change the word, burglarize the bank.

Mr. EHRLICHMAN. Well, let us suppose that it were possible. [Laughter.]

Senator ERVIN. On behalf of the committee, I want to make a request to the audience and that is that the audience refrain from expressing its approval or disapproval of anything which occurs in connection with the interrogation of the witness.

Senator TALMADGE. Mr. Chairman, I share that view, and I commend the Chair for preserving order. I think it is in the national interest to do so regardless of what the feelings or the emotions of the audience may be. This committee is engaged in trying to ascertain the facts. We are not conducting a show or entertainment program here. What I am trying to do is find out what the authority of the President of the United States is to break and enter under what conditions, and what other acts do not conform to the law, his authority may be.

Senator BAKER. Mr. Chairman, could I say a word on that subject?

Senator TALMADGE. I yield to the Senator from Tennessee.

Senator BAKER. I thoroughly concur in the chairman's statement and the statement of Senator Talmadge. This committee has a tough job, and anybody who does not think so just ought to think about it for a little while, but believe me, it makes it infinitely tougher if we are cast in the role of conducting a circus or entertainment. It does not help the demeanor of these hearings. It does not help a witness, it does not help this committee, and it constantly detracts from the objectivity and the evenhandedness with which we tried to conduct this undertaking, so I join with the chairman and compliment the chairman in making that observation.

I very much hope the guests of this committee present today and future guests of the committee will scrupulously adhere to that admonition from the chairman.

Senator TALMADGE. If you had thought that the psychiatrist's profile had been in a lockbox in a bank in Washington, you would not authorize the entry, would you, Mr. Ehrlichman?

Mr. EHRLICHMAN. Mr. Chairman, I wonder if we could perhaps escalate this to the level of seriousness that it was viewed in the Government at the time. This was not simply an effort to pick up gossip. This was an effort to crack what was at that moment the largest raid on top secret documents that had ever been made in the history of this Government. I think it would be much more.

Senator TALMADGE. I agree with your statement that I thought it was a very reprehensible act, but does one reprehensible act authorize another?

Mr. EHRLICHMAN. Let me emphasize the magnitude or the comagnitude. It might be this kind of a situation: Let us suppose you knew in that safe deposit box there was either a device or the conclusive information about some attack that was going to be made, a nuclear attack that was going to be made the next day. Now, does the power then extend to getting into that safe deposit box, or do we say a man's home is his castle, his safe deposit is his castle, and so let the bombs come?

Senator TALMADGE. Do you not think under those conditions you could have gone to the bank, gotten those documents very hurriedly?

Mr. EHRLICHMAN. I think probably there would be a very cooperative banker, and my assumption was that this might be a very cooperative psychiatrist or nurse or nurse's aide or someone who, without breaking and entering, would have permitted—

Senator TALMADGE. I don't argue with your statement that the President has the power to repel an immediate attack. He has that power. But what we are talking about here is an unauthorized entry and burglarizing of a man's premises, who was not even involved in stealing the papers the first instance.

Mr. EHRLICHMAN. Well, I have to say to you that as the seriousness of the problem is presented, I think you are exactly right in your suggestion, that you could enlist the cooperation of individuals to avoid the crashing of the bank or the crashing of the doctor's office, and my reaction, when I first heard about this, was one of disapproval because it certainly wasn't in my contemplation that there was going to be a breaking and an entering here. My contemplation, from the beginning, was that this could be done without that.

Senator TALMADGE. Now, did the President authorize that break-in?

Mr. EHRLICHMAN. Not in express terms; no, sir. At least not to my knowledge.

Senator TALMADGE. As a matter of fact, in a subsequent statement he expressly denied it, didn't he?

Mr. EHRLICHMAN. I read his statement, and I have heard testimony here. I would not be totally responsive to your question, however, if I did not add one thing, Senator. On the 24th of July I sat in a meeting where the President gave Mr. Krogh his charter, his instructions. I must say that the President put it to Mr. Krogh very strong that he wanted Mr. Krogh and the people in this unit to take such steps as were necessary and I can recall in that conversation specific reference to the use of polygraphs and summary procedure for the discharging of Federal employees who might have been involved in this episode.

Senator TALMADGE. Let me read the President's own language to you taken from the Congressional Record of May 23, 1973.

Consequently, as President, I must and do assume responsibility for such acts despite the fact that I, at no time, approved or had knowledge of them.

And he was talking about the break-in of Fielding's office.

Mr. EHRLICHMAN. Senator, I think it's important in that same connection, however, to read the previous two paragraphs which say:

At about the time the unit was created Daniel Ellsberg was identified as the person who had given the Pentagon Papers to the New York Times. I told Mr. Krogh [This is the President speaking] that as a matter of first priority the unit should find out all it could about Mr. Ellsberg's associates, and his motives. Because of the extreme gravity of the situation and not then knowing what additional national secrets Mr. Ellsberg might disclose, I did impress upon Mr. Krogh the vital importance to the national security of his assignment. I did not authorize and had no knowledge of any illegal means to be used to achieve this goal. However, because of the emphasis I put on the crucial importance of protecting the national security I can understand how highly motivated individuals could have felt justified in engaging in specific activities that I would have disapproved had they been brought to my attention.

Now that refers to this July 24 conversation between the President and Mr. Krogh, and I must say that I think that is a fair characterization of the urgency which the President expressed to Mr. Krogh and undoubtedly a recognition of the fact that one in Mr. Krogh's situation might well believe that he had been charged with taking extraordinary measures to meet what the President described in very graphic terms.

Now, you should also note that at this same time the Strategic Arms Limitation Treaty negotiation documents had been compromised, so that the President, by the 24th of July, knew that his negotiating position versus the Russians in the Strategic Arms Limitation Treaty negotiations were known to the Russians and literally the negotiations had been compromised.

He discussed with Mr. Krogh in very graphic terms the disadvantage in which he found himself now in trying to conduct this country's foreign policy and work out this arms limitation having had these secrets displayed.

Senator TALMADGE. Mr. Ehrlichman, isn't it a fact, assuming for the sake of argument that your theory is correct, that the President could authorize such a break-in, isn't it a fact that the President himself and not Mr. Ehrlichman would have to authorize that break-in?

Mr. EHRLICHMAN. Sir, I did not ever authorize a wiretap or any other extraordinary measure on my own.

Senator TALMADGE. Or entry, whatever it was?

Mr. EHRLICHMAN. On my own say-so. When I answered Mr. Dash yesterday about whether I had authorized such and such in no case was that on my own say-so. In every case in which I transmitted an authorization to the Attorney General it was after referral to the President and his express approval.

Senator TALMADGE. When was the Fielding break-in?

Mr. EHRLICHMAN. As I said yesterday, Senator, I have heard two dates but it was sometime over the Labor Day weekend.

Senator TALMADGE. September 1971 in any event?

Mr. EHRLICHMAN. 1971, yes, sir.

Senator TALMADGE. Now when was the New York Times case tried, and this authorized the publication of those papers in the New York Times?

Mr. EHRLICHMAN. I don't think I have the date of the decision.

Senator TALMADGE. Was it June 1971?

Mr. EHRLICHMAN. I don't have the date of decision of that. I can't disagree with you, Senator.

Senator TALMADGE. Isn't it a fact that the break-in occurred more than 60 days after publication of those papers in the New York Times?

Mr. EHRLICHMAN. Oh, I think two things have to be said here: One, the investigation was not to prevent the newspapers from publishing the Pentagon Papers because that was, of course, an accomplished fact. The investigation here was to find out who had stolen top secret documents, and disseminated them, not only to the newspapers but, and we had at the time strong reason to believe that the documents delivered to the Soviet Embassy were not the same documents as were printed in the New York Times. I think you know, Senator, that there was a disparity, there was a difference between what was printed in some of the newspapers, on the one hand, and what was, for instance, delivered to the Congress, on the other, and there were actually about three different versions of these documents in existence and by versions, I mean different documents in different sets going around, and so it was entirely reasonable to believe that the Soviet Embassy had received more sensitive documents than those that had been printed in the New York Times.

But the main point here is that the investigation was not to stop the publication in the newspaper. The investigation here was to determine how so many vital top secret documents could get out of the Federal Government and into the hands of a foreign power.

Senator TALMADGE. Assuming for the sake of argument that you are entirely correct on your legal premise, which I don't, I could conceive of a break-in on Ellsberg but I can't conceive of a break-in on his doctor who had nothing whatever to do with national security.

Mr. EHRLICHMAN. I understand. As I have said before, Senator, the investigative technique here of the psychiatric profile required information, just as the determination of who the coconspirators were required various kinds of information.

Now, you might go to a service station attendant to get information about who Mr. Ellsberg's friends were. That does not mean necessarily that the service station attendant was a coconspirator and certainly there is no suggestion here that the psychiatrist was in any way a coconspirator. He was the holder of what they considered to be important investigation information as I understand it.

Senator TALMADGE. Why didn't the FBI handle the job?

Mr. EHRLICHMAN. Well, I have explained that yesterday. The situation was a unique one, which the Attorney General described to us, in which the Director simply refused to permit his top people, Mr. Brennan, particularly, to conduct interviews of some of Mr. Ellsberg's family, and it was a situation where the case was not being treated as a primary case by the Bureau, and Mr. Krogh came to us and said, "I can't move the Bureau on this with the kind of cooperation that the case deserves."

Senator TALMADGE. You are not saying that the President of the United States was helpless in trying to get the cooperation of the FBI, are you?

Mr. EHRLICHMAN. I am saying that the Attorney General reported to the President an extremely difficult situation with the Director which he felt could lead to the resignation of some of the top people in the



Bureau. That while the Attorney General felt that he could reverse the Director's decision with regard to the suspension of Mr. Brennan, he did not think that at the time he could force the Director to an acceleration of the Bureau effort on this subject without a total rupture with the Director.

Senator TALMADGE. You don't mean to intimate in any way, shape, fashion or form, do you, Mr. Ehrlichman, that J. Edgar Hoover was in any way soft on communism or national security, do you?

Mr. EHRLICHMAN. J. Edgar Hoover clearly was not that. At the same time it appears that Dr. Ellsberg's father-in-law was a very close friend of his and I think everyone who knew of the Director knew of his loyalty to his close friends.

Senator TALMADGE. Mr. Chairman, my time has expired and I yield at this point.

Thank you, Mr. Ehrlichman.

Mr. EHRLICHMAN. Thank you, Senator.

Senator ERVIN. Senator Gurney.

Senator GURNEY. Thank you, Mr. Chairman.

Mr. Ehrlichman, since we are on this Ellsberg break-in again, I would like to clarify the record of yesterday just a bit.

As I understand it you testified in response to questions from Mr. Dash that the Justice Department and, more particularly, Mr. Petersen, had the information about the Ellsberg break-in a year ago. That was not of your own knowledge was it?

Mr. EHRLICHMAN. No, sir.

Senator GURNEY. Where did that come from?

Mr. EHRLICHMAN. That came from Mr. Dean in the first instance and then it came one step removed, from Mr. Krogh, who quoted to me what Mr. Dean had also told him.

Senator GURNEY. That is what I would like you to clear up because, of course, this is a very serious allegation against both the Justice Department and especially Mr. Petersen, who was Chief of the Criminal Division. He has made an affidavit on this subject and I understand this is on file in the *Ellsberg* case which is otherwise known as *United States v. Russo*, and I would like to submit the affidavit at this point in the record, Mr. Chairman. I won't bother to read it, but to summarize quickly what it says, it says, and this is an affidavit of Mr. Henry E. Petersen, who is the Assistant Attorney General in charge of the Criminal Division of the Justice Department, he says:

I have no information, I have had no information regarding an alleged unlawful entry on or about September 3, 1971, by persons then connected with the Government into the office of Daniel Ellsberg's psychiatrist until April 16, 1973, when an allegation contained in a memorandum from Earl J. Silbert, Principal Assistant, U.S. Attorney's Office, Washington, D.C., was submitted to me.

I am unaware of any information received by the Department of Justice in connection with this investigation of the unauthorized disclosure of the Pentagon Papers and in the Case of *United States v. Anthony Joseph Russo, Jr., et al.* which came, or could have come from the alleged burglary by E. Howard Hunt, G. Gordon Liddy and others of the office of Daniel Ellsberg's psychiatrist, Dr. Lewis Fielding.

The Xerox copies of photographs of what apparently are exterior shots of the building and parking lot in which Dr. Fielding's office is located were first delivered to the Criminal Division of the Department of Justice in about October of 1972 by the Central Intelligence Agency in connection with requests made by the prosecutive staff of the so-called Watergate case for background information pertaining to certain of the defendants in that case, including E. Howard

Hunt. The significance of these Xerox copies of photographs to the then-unknown alleged break-in of Dr. Fielding's office was, of course, not then realized, since I had no knowledge whatsoever of the Department of Justice file in the Pentagon Papers case until that matter was transferred to the Criminal Division as a result of the abolition of the Internal Security Division March 26, 1973 and the significance did not thereafter become apparent until a check was made of the CIA material in the Criminal Division on or about May 3, 1973, in connection with the case of *United States v. Anthony Joseph Russo, Jr., et al.* as a result of the Government disclosure of the memorandum of April 16, 1973, to me.

I thought it was only fair to Mr. Petersen to put that affidavit which gives his version of how he came to have knowledge of the alleged break-in of Ellsberg's psychiatrist and that, of course, was not until this year.

Mr. EHRLICHMAN. Senator, I certainly have brought you only hearsay on this.

Senator GURNEY. I understand.

Mr. EHRLICHMAN. I did it not for the purpose of the truth of the statement but I did it in response to a question about what I thought at the time about who knew about this.

Now, what the affidavit doesn't say, that you all might be able to determine, is whether or not Mr. Dean was correct in what he told me about what those pictures showed because he told me that one of the pictures was a picture of G. Gordon Liddy standing in front of Dr. Fielding's name plate and that the other pictures were pictures of ransacked premises.

Now, if, in fact, the affidavit is correct, and they got these things in the Justice Department back in October of 1972, which would have been sometime ago with G. Gordon Liddy standing in the foreground, that might cast more dignity upon Mr. Dean's statement to me than just taking the bare affidavit. But again I hesitate to say in fairness to Mr. Petersen that I don't vouch for the truth of what Mr. Dean told me about this. I just have to tell you what he thought at the time.

Senator GURNEY. Well, I realize that, and my introduction of the affidavit was in no way to impeach your testimony, but only to show that Mr. Petersen has an entirely different viewpoint of this, which I think is important from his point of view as well as the Justice Department.

Mr. EHRLICHMAN. I understand.

Senator GURNEY. It also raises an interesting point, too, about how Mr. Dean could have found out a year ago if the Justice Department itself didn't receive the information until October of last year. That certainly is a conflict of testimony.

Senator ERVIN. I think maybe I had better put in the record that this affidavit which you have offered without objection on the part of any member of the committee is received as an exhibit and the reporter will mark it appropriately as such.

[The document referred to was marked exhibit No. 93\*.]

Senator GURNEY. One of the important pieces of testimony in this hearing, Mr. Ehrlichman, involves the whole matter of Executive clemency, whether the President actually authorized anybody to offer Executive clemency to any of the defendants. And I am sure you know this has come up in our testimony. I would like to examine that area for a moment.

\*See p. 2652.

First of all, did you have—your logs show that you had meetings with John Dean on January 3, 1973, January 4, and January 5.

Would you tell the committee what the subject of those meetings was, beginning with the 3d?

Mr. EHRLICHMAN. On January 3, I met twice with Mr. Dean, once alone at noon and once at 7 p.m. with Mr. Colson. The meeting with Mr. Colson related to a letter which Mr. Dean had told me about at our earlier brief meeting, and this was a letter which I believe Mr. Colson had received from Mr. Hunt. I believe I am correct about that. It was a very melancholy and a very passionate kind of letter. I think the letter is in the record, as a matter of fact. And it talks about his being abandoned by his friend and so on. It was on the heels of Mr. Hunt having lost his wife.

Mr. Colson was genuinely concerned and shaken by this. He had had long friendships with the Hunts, both Mr. and Mrs., and he had proposed to Mr. Dean that he get together with Hunt or with Hunt's attorney, at least, to register his continuing friendship and his compassion for Hunt's loss of his wife and so on, and so that Hunt would not feel that he had been abandoned by his friend. This is the thing that we discussed with Mr. Colson that evening at 7 o'clock.

I took it as almost a given in the meeting that there would be some contact between Mr. Hunt or his attorney and Mr. Colson. And it was simply a question of what the proper conduct would be under the circumstances, it being, obviously, delicate to have a White House contact of one of the defendants right at this particular point in time. So it was discussed and it was discussed in terms not of a personal meeting between them, which is what Mr. Hunt, apparently, wanted in the letter, but Mr. Colson talking with William Bittman, who was then Hunt's attorney, and conveying this message of support, personal support through that avenue.

Mr. Dean raised the cautionary warning that if anybody from the White House sat down with Mr. Bittman in a situation like this, that there was an inevitable opportunity for misunderstanding as to the purpose of the meeting, as to assurances that might or might not be given, and so forth.

Clemency was obviously at the forefront of everybody's mind in this meeting as one of the things which was a potential danger, and I advised both people at the meeting, Mr. Dean and Mr. Colson, of a previous conversation that I had had with the President on that subject, and indicated to them that—

Senator GURNEY. That was back in July, was it?

Mr. EHRLICHMAN. Yes, sir. I indicated to them the substance of that conversation, which was that the President wanted no one in the White House to get into this whole area of clemency with anybody involved in this case, and surely not make any assurances to anyone.

Mr. Colson said that he was sure that he could avoid that pitfall and have the conversation. He was advised by Mr. Dean to either take notes or make such mental notes of the conversation that he could reconstruct the conversation if the question ever came up again. And that is what Mr. Colson did. We had a subsequent meeting where—

Senator GURNEY. Before we go to the subsequent meeting, could you be a little more explicit in your testimony as to how the discussion arose about Executive clemency? Who brought it up, and who said what on this subject at the January 3 meeting?

Mr. EHRLICHMAN. I can't say who brought it up, Senator. We were going over the potential problems that could come from Mr. Colson having a contact, either with Mr. Hunt or his attorney. It had been his firm practice not to have any contact with Mr. Hunt because of the imputation, because frankly, everybody knew they were close, that they had been close friends. There had been a lot of suspicion that somehow, Mr. Colson might be implicated in the Watergate because he was a close friend of Mr. Hunt's, and Mr. Colson was leaning over backward to do everything he could to avoid giving any credence or credibility to that suspicion.

So when we got into the decision that he would have contact with Bittman rather than Hunt, I think it was John Dean who said, "You are going to be asked whether you are willing to get Hunt out at some time in the future."

Senator GURNEY. How did Dean know that he was going to be asked that?

Mr. EHRLICHMAN. Well, it was conjecture, but I mean it was in the realm of what kind of problems are you liable to confront and you had better be ready for this, and look out, and what is your response going to be? I think both Dean and I had some mental reservations about the desirability of this, but Mr. Colson had a very strong friendship urge, so to speak—I mean, here was this really moving letter and he was saying, "I just can't leave this fellow without hearing from me."

Now, how do we go about this?

Senator GURNEY. All right, now, you have a meeting on January 4, the next day. Did that involve this subject at all?

Mr. EHRLICHMAN. No, that included Attorney General Kleindienst.

Senator GURNEY. And it had nothing to do with the Hunt problem?

Mr. EHRLICHMAN. I do not believe so. I do not think it was ever mentioned.

Senator GURNEY. I see you had a meeting, too, on that day January 4, with the President. Did you discuss Watergate in any fashion on that meeting?

Mr. EHRLICHMAN. I do not recall, Senator. That would have been my first meeting with the President after I came back from about a 2-week absence. My guess is that the—well, let us see. About an hour of that, I think, was by myself—no, let us see, that was with the President, Mr. Haldeman, and then Dr. Kissinger came in for about 45 minutes of that meeting. I believe that was a catchup session on just the problems that had accumulated during my long absence, but I just do not have any recollection of specific topics.

Senator GURNEY. Do you have notes on that meeting at all?

Mr. EHRLICHMAN. Well, I do, but they are not in my custody and I have to be like an elephant and suck up the contents and then come somewhere and try to regurgitate them. It is a laborious process, because we, as you know, are not in a position to make any notes or copies. So I do not have—

Senator GURNEY. Have you checked that meeting recently, the notes of that meeting?

Mr. EHRLICHMAN. No, sir; I have not. All I have is the President's log which shows who was in the meeting.

Senator GURNEY. Let us turn to January 5, now, a meeting with Dean and Colson.

Mr. EHRLICHMAN. Right.

Senator GURNEY. Does this involve Hunt and clemency again?

Mr. EHRLICHMAN. I do not know, Senator, whether that is the meeting where Mr. Colson reported on his meeting with Mr. Bittman or whether it was on the 25th of that month. There were two meetings with both Dean and Colson. My recollection is that at some point in time, rather soon after, he had met Bittman, Colson and John Dean and I sat down again. Colson recounted to us what the conversation had been.

Senator GURNEY. Why do you not describe that to the committee, whether it was on January 5 or at a later date?

Mr. EHRLICHMAN. He gave us the strongest kinds of assurances that he had not made any sort of commitments, that he felt that Mr. Bittman had very guardedly and, if you will pardon the expression, covertly advanced feelers to him which he rebuffed. And he made a rather long, detailed memorandum for his file about the conversation and all its subjects and gave a copy to Mr. Dean, either at that meeting or, I guess, subsequently thereafter—very shortly thereafter.

Senator GURNEY. Now, as you recall, Mr. Dean testified before this committee and was very positive in his testimony that as a result of this meeting that occurred on January 3, Ehrlichman checked with Nixon and told Colson to give Bittman assurance clemency would be offered. Now, I am not quoting him—

Mr. EHRLICHMAN. I understand.

Senator GURNEY. But that is the gist of what he testified to. Would you comment on that?

Mr. EHRLICHMAN. Yes, sir. That is a story that had an out-of-town try-out like many of Mr. Dean's episodes. Now, what we would see is that a story would appear in one of the news magazines or a newspaper in a certain version and when Mr. Dean got here to testify, he had a slightly different version, but the differences were extremely material. This was one of them. The version which got the tryout was that I had jumped up from the meeting, run out—presumably to the President's office—come back and said, "Fine, fellows, it is all set, you have got it." And that had its problems, because, of course, the meeting to which he was referring did not take place until 7 o'clock in the evening and the President's log makes very clear the fact that I had no meetings with the President that day. So factually, the printed story in the media would not wash.

Now, when Mr. Dean testifies, his story was, well, we had this meeting and this was discussed, and then I heard a day or two later that Mr. Ehrlichman had given assurances to Mr. Colson that he had checked this and that it was OK.

Now, that likewise is not going to wash, because the only meeting that I had with the President, as shown by the President's log and by my log, was a meeting which involved other people at half past—no, at 3:02 on January 4. Mr. Haldeman was in the meeting the entire time, Dr. Kissinger was in the meeting a substantial portion of time, and I can assure you, Senator, that Executive clemency was not discussed at any time.

Senator GURNEY. You never took up this matter with President Nixon at any time?

Mr. EHRLICHMAN. I did not have to.

Senator GURNEY. Except in July?

Mr. EHRLICHMAN. I knew what the marching orders were from July, and I particularly knew because it was my strong feeling, that he ratified and adopted, that this was a closed subject and we must never get near it. And that it would be the surest way of having the actions of these burglars imputed to the President for there to be any kind of entertainment of conversation, whether might or otherwise—

Senator GURNEY. To put it bluntly, your testimony is that John Dean told an untruth?

Mr. EHRLICHMAN. Yes, sir, twice. Once in the out-of-town tryout, once here.

Senator GURNEY. He had another comment to make in regard to this particular clemency business. That was after you were supposed to have told Colson that he could tell Bittman that clemency would be offered. Dean brought up the proposition that other people would want clemency, too, and his testimony is that you said, well, that would go for others, too, something like that. What about that testimony?

Mr. EHRLICHMAN. No, sir, that falls for the same reason that the other one does. I had the strongest conviction that we must never discuss Executive clemency, either the President must never discuss it, but any of us must never discuss it with any outsider, for just the kind of reason that we are seeing in this situation now.

I did not have even a scintilla of a hint that anyone was making an approach, for instance, to McCord. That whole thing was a total revelation to me, and a monumental error, in my opinion.

Senator GURNEY. There is one other little facet here. I suppose the best evidence will be when Mr. Colson comes before us. But there also is testimony from John Dean that he said that Colson also discussed this matter of Executive clemency with the President, and the President said, "Yes, you can offer Executive clemency for Hunt"—of course, I am paraphrasing. That is not the exact testimony.

What about that? Did Colson ever talk to you about any conversations he ever had with the President about Executive clemency?

Mr. EHRLICHMAN. No, sir, he did not.

Senator GURNEY. Did you ever ask him whether he ever had any conversations with the President?

Mr. EHRLICHMAN. No.

Senator GURNEY. On Executive clemency?

Mr. EHRLICHMAN. No. When Dean and Colson and I talked about this, I went through the substance of my July conversation with the President, and one of the things that I mentioned was, not in pointed terms with Mr. Colson but just generally, was that I did not think anybody ought to talk to the President about this subject, outsiders or staff people, that it is just a subject that should be closed as far as the President is concerned.

Senator GURNEY. I always hesitate to ask a question like this, and yet I am intrigued with this particular area, because you have a very clear memory about it. It certainly was talked about, Executive clemency. I would like to ask you, why do you think John Dean has testified that the President offered Executive clemency through you and through Colson? And, of course, brought it up, as he said, to Dean himself.

Mr. EHRLICHMAN. I take it, Senator, and here I am speculating, rankly speculating. Here's an episode with Mr. McCord, which comes out through Mr. McCord back through Caulfield to Dean. Now, how does John Dean justify having sent Mr. Caulfield to talk to McCord? I don't know whether that is the explanation or not, but it certainly was suggested to me as I watched Mr. Dean at this table spinning this tale.

Senator GURNEY. Let us go to another area which involved you and Mr. Dean and that is the papers that were taken from Hunt's safe after it was opened by Dean's people. Some of these papers, as you know, were very sensitive. Some were contained in a briefcase of Mr. Hunt's. The testimony, of course, here is that Dean had a conversation with you about this and you made some suggestions about disposing of the papers that were in the briefcase. My recollection is that you advised Mr. Dean to deep-six these papers. Would you care to tell us about this meeting?

Mr. EHRLICHMAN. That was a meeting, if I heard the testimony correctly, which was also attended by other people and should be susceptible of determination from independent witnesses. To correct an assumption in your question, Senator, I did not know the contents of Mr. Hunt's safe except in the most general terms. I was told, and I can't say who told me—probably Mr. Dean—that there was a pistol and a tape recorder and a number of documents, some of which had nothing to do with Watergate but were very politically sensitive. Now, that was the general description. I had no occasion to look at them, I never saw them except as a few of them were sealed in an envelope and handed to Pat Gray.

The conversation has to be weighed, the probability of such a conversation where I said, run out and throw this in the river, has to be weighed against what I actually did, which I think the witnesses who were in the meeting on the 19th will tell you that I did.

We had had a meeting for two purposes on the 19th, which included Mr. Colson, Mr. Kehrli, staff secretary, and Ken Clawson on the White House staff. The meeting was for, as I say, two purposes—one, to try to determine what the facts were about Howard Hunt's employment status, which was very murky at that point in time, because of some lack of documents or some confusion of documents, and things of that sort.

The other purpose was to talk about what to do about this safe which had been found on the premises, and apparently had things in it that related to Howard Hunt, who was then, if not arrested, at least a prime suspect.

The instructions which we agreed upon at that meeting were that a number of people should be present at the opening of that safe. We knew we had to have something from the GSA because they had to open the safe. But in addition to that, I specified to Mr. Kehrli, being present, that Mr. Dean be present and take custody. Then I think Mr. Kehrli suggested that a Secret Service agent be present under the circumstances, because we were breaking into a safe in the White House. And that was the arrangement that was agreed upon when we broke up on the 19th.

My purpose in doing that was twofold. One, this was a kind of extraordinary procedure and I thought there ought to be people who

could, one, later on tell what had happened; two, I was concerned about the custody of these documents, the chain of evidence, the perfectibility of proof if the time came and there were documents in there that bore on Mr. Hunt's liability.

So that was done, and it was done, I believe, that same day or that evening.

Senator GURNEY. Yes.

Mr. EHRLICHMAN. Now, it seems to me that it would have been folly for me at some later time, then, to suggest that the briefcase be thrown into the floodtide of the Potomac or that these papers be thrown in the river, or something of this kind.

Now, there was in this story also the suggestion of shredding. I don't think in my life that I have suggested to anybody that a document be shredded. Shredding is just not something that I have ever resorted to under any circumstances, nor proposed to anybody under any circumstances. As I said, we have a great disposal system at the White House. If you really want to get rid of a document, you put it in a burn bag and you seal it up and it's never opened again, and it goes into a furnace and that is the end of it.

Senator GURNEY. But to get back to this second meeting when John Dean comes to you and tells you, we have got some pretty sensitive papers here, and as he alleges, you say, well, deep-six this briefcase. What's your testimony on that?

Mr. EHRLICHMAN. I did not. I have no recollection of that kind of a conversation.

Senator GURNEY. Did you make any other suggestion to him that he dispose of these papers in any other way?

Mr. EHRLICHMAN. We discussed what to do about some papers which he told me about in the safe which really should not be leaked. Again, we have to come back to our FBI problem. And he was genuinely concerned and when he explained it to me, I shared his concern, that if these documents were simply wholesaled to the Washington field office the FBI, we would be reading about it in Time magazine in very short order.

Senator GURNEY. Now you are talking about the ones that were turned over to Gray?

Mr. EHRLICHMAN. And so Mr. Dean came up with this idea, turning them over to Pat Gray personally. And I certainly concurred in it. I thought that was an ideal solution to the problem.

Senator GURNEY. Did that come up in this meeting when supposedly the deep-six conversation came up?

Mr. EHRLICHMAN. Well, I gathered that that meeting was supposed to have been the meeting when Mr. Kehrlie and the others were there. It would have necessarily been at that meeting, because the die was cast thereafter. You know, the 20 bishops had witnessed the opening of the safe at this point. So it had to be that meeting.

Now, I do not know what meeting he is referring to.

Senator GURNEY. I think he said it was the 21st.

Mr. EHRLICHMAN. The 21st.

I met with Mr. Dean on the 21st in the afternoon. The only thing that I can say to you is that I certainly would not have and did not propose the destruction of those documents.



Senator GURNEY. Well, let us get, then to—that is clear enough. Let us get to the Gray papers. As I understand your testimony now, Mr. Dean did raise these sensitive papers. If they were just filed away in the FBI regular files and somebody got to them, why, it would be very embarrassing to a lot of people.

Mr. EHRLICHMAN. That is what he said.

Senator GURNEY. What happened to those papers? Tell your version of the story from his first telling you that these were sensitive papers to where he tells you something different about them?

Mr. EHRLICHMAN. He agonized for several days about what to do with this situation. I was not involved in a lot of conversations with him about it. He was gone a couple of days during this interval because the river was flooding on account of Agnes hurricane. His house was near the river and so he was just out of the play for a couple of days during that particular time. He was moving his furniture up and putting up sandbags and whatnot.

So he came back from that interlude and said he thought he had an idea as to how to solve this problem and that would be to deliver these documents in two parcels—one parcel to the field office and the other parcel to Pat Gray. I certainly concurred in that suggestion. It seemed to me like a good way of making sure that the documents did not leak as long as Mr. Gray held on to them.

Senator GURNEY. This was his suggestion to turn them over to Gray?

Mr. EHRLICHMAN. Yes, sir.

Senator GURNEY. And then what happened?

Mr. EHRLICHMAN. Then, I said that either I would get Mr. Gray to come over, but I think what I said to him was Mr. Gray was coming over that day for another appointment and why didn't he just bring them over when Pat Gray was there and deliver them to him, so two of us could say that the delivery had been made and we would put an end to this evidentiary chain, so to speak.

Senator GURNEY. I understand that he did come over and he did bring the documents and Gray and he and you were there. Then, what happened?

Mr. EHRLICHMAN. We were there. He said, "Pat, I would like to give you these." The sense of it was that these were contents of Hunt's safe that were politically sensitive and that we just could not stand to have them leaked. I do not know whether he had talked to Gray before or not, because Gray seemed to understand the setting and the premise, so to speak. And he turned the documents over to him and John Dean then left.

Senator GURNEY. Did you say nothing during this whole meeting?

Mr. EHRLICHMAN. I probably chimed in on the subject of leaks, which was then kind of a—was a theme that I was hitting with Mr. Gray right along. And as I have testified before, I do not recall the specific language that was used. The sense of the conversation between the three of us, which was not a long conversation, was that the purpose of Pat Gray taking delivery of these was to avoid the leak problem which all of us recognized that the FBI was having.

Senator GURNEY. Well, I seem to recall there was some testimony about, to Gray by someone, either Dean or you, that these documents should never see the light of day. Do you recall that?

Mr. EHRLICHMAN. I don't think—well, I don't know whether there was testimony about that. That is not a phrase that I have ever testified to. I don't recall that phrase being used.

Senator GURNEY. Your recollection then is that it was just made known to Gray that these were very sensitive documents, and he ought to make sure they were kept very sensitive and no one saw them. Is that the gist of it?

Mr. EHRLICHMAN. No; I think the word "politically" was in it. I think it was very clear they had political overtones rather than saying sensitive from a national security standpoint or something of that kind.

Senator GURNEY. Was there any discussion at that meeting that would give Gray the thought that he ought to destroy them?

Mr. EHRLICHMAN. No, sir.

Senator GURNEY. You are positive on that score?

Mr. EHRLICHMAN. And the reason that I am positive, Senator, is that when I heard that he had in fact destroyed them I was just nonplussed. There was just nothing in the contemplation of the people in that room at the time of the delivery that would have led to that kind of a conclusion.

Senator GURNEY. Did you ever have any communication with Mr. Gray about these documents after that meeting?

Mr. EHRLICHMAN. Yes, sir.

Senator GURNEY. And recount that to the committee.

Mr. EHRLICHMAN. That was in April of this year. We had a conversation. The President asked me to telephone Mr. Gray, it was a Sunday night, and it was the 15th of April, at about 10:15 p.m. I was in the President's EOB office, and he had had a meeting that day with Mr. Kleindienst. The subject of these documents came up at that meeting, and the President asked me to call Mr. Gray and find out what the documents were and where they were. So I did that. Mr. Gray was not home. When he got home he called back and we completed the conversation in the President's office.

Do you want the substance of the conversation?

Senator GURNEY. Yes.

Mr. EHRLICHMAN. I told him at that time that the delivery of the documents to him had been the subject of this conversation between the Attorney General and the President; that Mr. Dean apparently had told the prosecuting attorney about the fact that he had made the delivery. Mr. Gray said, "Well, he can't say that." And I said, "Well, he did say that." and he said "If he says that, I will deny it," and I said "Well, Pat, it isn't a subject for denial. Obviously it's not something you can deny, I recall the episode very clearly." Well, he says, "You have got to back me up on this." Then he went on to say "I destroyed the documents."

That totally nonplussed me and I said something rather confused and said goodbye and hung up and reported to the President that he had, in fact, just told me that he had destroyed the documents.

We talked about the implications of that, and I said "I don't think that I completely closed the door with Mr. Gray just now on whether or not I would back him up if he denied receiving the documents."

So I placed a second call right then, and I said "Pat, I didn't respond clear enough to your suggestion and I just want to tell you, as I have to tell you, that I would have no choice if I were asked but to say

that I was present at the time the documents were delivered to you." And he said "I understand. I guess I will have to do what I have to do" or words to this effect, and that is the end of the second conversation.

Senator GURNEY. Thank you, Mr. Ehrlichman. I think my time has elapsed, Mr. Chairman.

Senator ERVIN. Unless there is some objection the committee will take a recess at this time until 2 o'clock.

[Whereupon at 12 noon, the committee recessed to reconvene at 2 p.m., the same day.]

#### AFTERNOON SESSION, WEDNESDAY, JULY 25, 1973

Senator ERVIN. I wish to reiterate the request to the audience to refrain from expressing approval or disapproval of anything said or done. I have to say that probably Senator Baker and myself were quite guilty of a little contributory negligence, we both so interested ourselves and probably laughed and probably set an example for others, but I do ask in the interest of the work of the committee, from the interest of fairness to witnesses, that the audience will refrain from expressing approval or disapproval in any audible manner in respect to any matter or thing. It will certainly facilitate the work of the committee as well as contribute to a proper hearing.

Senator INOUE.

Senator INOUE. Thank you very much, Mr. Chairman.

Mr. Ehrlichman, a few days ago Mr. Alexander Butterfield described in great detail the electronic audio recording devices which have been established and installed in the White House, in the Oval Room, in the Executive Office Building, and elsewhere. Yesterday in colloquy with one of my colleagues here when the tapes were mentioned you indicated that you were certain that if these tapes were made public they would support your contention, they would support your innocence. Is my memory correct, sir?

Mr. EHRLICHMAN. That is my feeling, Senator.

Senator INOUE. The President of the United States, has, by letter, indicated that he has no intention to release these tapes and tomorrow I presume we will know very officially what his decision will be, but it would appear at this point that these tapes will not be made public.

I have heard legal scholars suggest that this fact could serve as a defense for persons who may be indicted for certain criminal activities which may have involved the White House. One may argue that the tapes include indispensable evidence to prove innocence, and this would be sufficient for defense to move for the dismissal of an indictment. What are your thoughts, sir?

Mr. EHRLICHMAN. Well, as I tried to indicate yesterday, I have been on the other side of the problem here where I was sitting by the President trying to approach a problem which involved the rights of individuals and also the interest of the country, and they frequently do not coincide.

Senator INOUE. My question—

Mr. EHRLICHMAN. I understand.

Senator INOUE. My question is "if," and this is a very "iffy" question, and please forgive me for that, but if the U.S. Prosecutor should

decide to indict you for some crime, and if as you have indicated the tapes may well provide you with evidence that would prove your innocence, could you use this as a defense and have the case dismissed?

Mr. EHRLICHMAN. It has never occurred to me, Senator, and I would not touch the question with a 10-foot pole frankly, for fear I might somehow affect my rights or someone else's rights, and I think you would be sensitive to that. It is not something that has occurred to me, and I hasten to say it is not anything that I have talked to anyone in the White House about. It is a new wrinkle as far as I am concerned.

I started to respond in terms of my interest, which is not, I feel, prejudiced—

Senator INOUE. This aspect was never discussed with anyone?

Mr. EHRLICHMAN. I have never discussed it with anyone, no, sir.

Senator INOUE. Mr. Ehrlichman, your record indicates that you are a fine lawyer, you served for a time as the President's most trusted legal officer, you have been in private practice, and so I would assume that, like most of us here, you are aware of the code of ethics written and unwritten about the profession.

Mr. EHRLICHMAN. The legal profession?

Senator INOUE. Yes.

Mr. EHRLICHMAN. Yes, sir.

Senator INOUE. We have certain ethical codes.

Now, in early 1973, April 1973, the so-called *United States v. Russo, Ellsberg* case was in full bloom. The papers were covering this almost daily. It was a matter of grave interest and concern, not just for the press but for, I think, Members of the Congress, and the people of the United States. Now, in April of 1973, you called the presiding judge, Judge Byrne, did you not, and invited him to visit you at San Clemente?

Mr. EHRLICHMAN. Yes, sir.

Senator INOUE. And it was to discuss a possible appointment of Judge Byrne as the Director of the FBI.

Mr. EHRLICHMAN. Well, generally speaking, yes; not precisely but generally.

Senator INOUE. And you involved the President of the United States, who is also a lawyer, in the discussions.

Mr. EHRLICHMAN. I involved him? No, sir, I did not.

Senator INOUE. Did the President also meet Judge Byrne.

Mr. EHRLICHMAN. Yes; but I cannot say that I involved him. As Judge Byrne and I were walking the President came out of his office and came over and greeted Judge Byrne.

Senator INOUE. What was the nature of your conversation with Judge Byrne?

Mr. EHRLICHMAN [conferring with counsel]. My conversation, Senator?

Senator INOUE. Yes, sir.

Mr. EHRLICHMAN. I would like to go back and tell you how the conversation occurred, if I might, in order to put it in setting, if you have no objection.

Senator INOUE. Please do, sir.

Mr. EHRLICHMAN. It was evident that the Gray nomination was not going to be sustained, and at the President's instruction I contacted Judge Byrne. As it happened, before I talked to Judge Byrne I talked

with the Attorney General and told him of the President's instruction to me and of the fact that Judge Byrne was going to be coming to San Clemente for a meeting.

The Attorney General expressed his wholehearted approval of that meeting. He was a very enthusiastic advocate of Judge Byrne to be nominated if Mr. Gray could not be.

The conversation which I had with Judge Byrne on the telephone was substantially this: I said:

Judge, I have been asked by the President to call you. I have been asked to discuss with you a Federal appointment which is not judicial in character. I do not know whether this is an appropriate time for us to have a conversation like this because I do not know what the present situation in your trial is.

The impression I had from the newspapers was that the case was in its last stages, they were either in surrebuttal or had completed surrebuttal, and I did not know at that point what the posture of the case really was.

Senator INOUE. Were you aware at that point the judge had not rendered his decision?

Mr. EHRLICHMAN. Well, it was a jury case, and I was aware had not gone to the jury yet.

Senator INOUE. Had not given instructions to the jury?

Mr. EHRLICHMAN. So I said to the judge, "This is not a conversation which is urgent. We need not have it now but at some point in time I would like to have this conversation."

The judge responded, "I see no reason why we couldn't talk right away."

So I said, "Well, if that is the case, what is convenient for you?"

This was a Friday, I believe, yes, a Friday.

He said, "Well, I could come down this afternoon."

So I said, "Fine," and that is what happened. We set an appointment for 4 o'clock in the afternoon and he came down to my office.

When he came into my office I said again,

I am sensitive to the fact that you are trying an important lawsuit. I propose that we take a walk out toward the bluff from the office. If at any point a subject arises that you feel in any way impinges upon your ability to fairly try the case you just turn around and walk away from me and, as I said before, this is not something that needs to be discussed right now. We can talk about it later without prejudice.

He said, "Fine, let's proceed on that basis." So we did.

We walked out to the bluff and back and it was a conversation of perhaps 5 minutes total. The gist of the conversation was that I advised him it was the President's conclusion that he was going to have to resubmit a nomination for Director of the FBI, that he was interested in knowing whether or not Judge Byrne had an interest in the position. If he did, then obviously any decision on the President's part as to a nomination would finally be the President's, but that it would be helpful to know of his interest.

The judge indicated a very strong interest. He told me a number of his experiences with the FBI, that is to say he had been a U.S. attorney, he had had a number of experiences with the Bureau, he had some ideas about how the Bureau was falling short, some ideas about how it might be improved. He mentioned just that he had those ideas without getting into it in any great detail. So, he gave me an impression of very clear interest.

As we walked back, as I say, the President came out of his office, didn't know the judge apparently, was introduced to him. They chatted just very briefly, not about the case obviously but about just pleasantries. Their conversation lasted perhaps 30 seconds, and the President went back in his office. We returned to my office, where I said, "Well, I think the way we have to leave this is that I now know you have an interest and obviously the President has to reserve his options completely as to whether there is an offer to you or not."

So that was the end of that conversation.

Next day, during—there was a second conversation, Senator, I am getting ahead of myself here. I take it you would like me to recount that?

Senator INOUE. Please do, sir.

Mr. EHRLICHMAN. The next afternoon about midafternoon which would have been Friday, my secretary interrupted a conversation I was having to say that the judge was on the telephone. I took the phone call. He said, "I have been giving a lot of thought to our conversation of yesterday, and I would like to talk with you again."

I said, "Fine. My instructions are to be available to you. I would be happy to see you. When would you like to——"

"No," I said, "there is a problem. We are leaving the day after tomorrow to go back to Washington. Could we work it in in the next couple of days?"

He said, "Yes, I will be available on Saturday."

I said, "Fine, I am planning to be in Santa Monica on Saturday. Would you like to meet me there?"

And he said, "Sure, I am glad to work it out."

I said, "My mother lives a block from Palisades Park in Santa Monica. Why don't we meet there and have another walk," so he said, "Fine."

So we made a point to meet at Ocean Avenue and Montana Street by the park on Saturday in the middle of the afternoon, which we did.

We had a short walk during which he again evidenced very strong interest. He did not press me for an offer. When we got finished with the conversation, which again took about 5, no more than 10 minutes, he got in his car and left. Again no offers had been made, no acceptances, but I took this as an occasion when we wanted to restate his very strong interest to me in the position, and it was more symbolic than it was significant from the standpoint of content.

Senator INOUE. This all occurred at a time when Judge Matthew Byrne was the presiding judge in the case of *United States v. Russo, Ellsberg et al.*, and I think it would be an understatement to say that your interest and the President's interest in the outcome of the case was more than casual. You have indicated your interest in the Ellsberg situation to the extent that you had his psychiatrist's office burglarized. This was a case of major importance as far as the Justice Department was concerned. You wanted the outcome to be in favor of the Government, and under all those circumstances you still felt it was proper to call upon the presiding judge to make this offer. Didn't you think it was highly improper, unethical?

Mr. EHRLICHMAN. Senator, I can't accept your question without quarreling with some of your assumptions, I am sorry. But you very, very easily stated that I was the instigator of the burglary of Dr. Fielding's office, that is not——

Senator INOUE. This really didn't have anything to do with it.

Mr. EHRLICHMAN. I can't agree with that.

Senator INOUE. But you were aware that a burglary did occur?

Mr. EHRLICHMAN. I will accept that.

Senator INOUE. You had approved a covert operation to get information legally, as you said?

Mr. EHRLICHMAN. Let me respond directly, Senator, if I may.

Senator INOUE. Yes.

Mr. EHRLICHMAN. I can assure you that there was no such motive in my thoughts at the time of this meeting, and I am sure that is also true of the Attorney General, and I am sure it is true of the President. We were trying to get the best man that we could to be Director of the FBI, and that was the sole and singular motive.

Now, I have scoured the canons of ethics to find—and I bring this up because you referred to it at the outset—to find where I had in any way infringed upon them. Bear in mind I was not in the capacity of attorney, I had not been in the capacity of an attorney for some 3 years in the Government. I was a member of the executive branch, I was the President's agent in this matter, and my function in this was purely ministerial.

I don't accept the suggestion that I was an officer of the court, so to speak, in this setting. I simply wasn't.

Now, I take some comfort from the fact that I did this with the full knowledge of the Attorney General of the United States, who had all of the facts, which I did not.

Senator INOUE. He was aware that you were offering the FBI directorship to the judge?

Mr. EHRLICHMAN. Well, I did not offer it. He was aware precisely what I was going to do.

Senator INOUE. Were you not aware that this would present an impression of impropriety?

Mr. EHRLICHMAN. I was not.

Senator INOUE. Why were you sensitive about this?

Mr. EHRLICHMAN. Why was I sensitive about this?

Senator INOUE. Yes.

Mr. EHRLICHMAN. Well, I was sensitive about this, as anyone would be, because I was not personally as familiar with the progress of that trial as you evidently were from the reading of the press. I had to depend on the judge to tell me the proprieties in this matter. He was in possession of all of the facts. I was in possession of few, if any of them.

Senator INOUE. Then, I gather you were much surprised and shocked at the reaction of the public and the reaction of the legal profession when this was known?

Mr. EHRLICHMAN. In candor, I have been surprised, yes, sir, and I think it was in part because it has not been fully explained. I am grateful for this opportunity to tell exactly what happened.

Senator INOUE. And you still maintain that the Attorney General and you, in calling upon the judge, did nothing improper or unethical?

Mr. EHRLICHMAN. I would be very grateful to you, Senator, if you could specify the canon that you feel applies here. I have taken advice on this and I have not been able to determine, except in the most nebulous and general terms, some rather vague feeling that people have that a canon has been violated.

As I say, without laboring the point, I would be very grateful to you for that specification so that I can respond to it. I appreciate the sensitivity of approaching any sitting judge. I do not imagine there is a Federal judge in the country who does not have a case involving the U.S. Government before him on his docket somewhere or in the process of trial. It may be that the logical implication of what you suggest is that the executive branch should never offer a Federal judge a position.

Senator INOUE. But, this was not an ordinary case.

Mr. EHRLICHMAN. Well, you know, that reminds me of the story of the railroad—

Senator INOUE. You were not interested in the outcome of the *Ellsberg* case?

Mr. EHRLICHMAN. It reminds me a little of the story of the railroad claim agent who had a picture of the cow on his wall and the fellow says, "What is so special about that cow?" He says, "That is the only ordinary cow that the railroad ever hit." Every case in a matter of this kind gets to be the extraordinary case, I am sure.

I think that in approaching this as I did, talking with the Attorney General, talking with the judge in the terms that I did, I hedged this about with as much precaution as I knew to do and still carry out the explicit instructions that I had from the President.

Senator INOUE. You had conversations with the judge on two separate occasions. Did you at any time advise the judge of your knowledge of the break-in into Dr. Fielding's office?

Mr. EHRLICHMAN. No, sir.

Senator INOUE. Why did you not advise him of that, sir?

Mr. EHRLICHMAN. Well, I think that would have been extraordinarily improper from two standpoints.

Senator INOUE. I would like to know them.

Mr. EHRLICHMAN. The first one, of course, was that I was under a strict injunction from the President as to that entire national security subject matter.

But, second, for a member of the executive branch to talk to a sitting judge about a matter affecting a trial before him at that time, without going through the counsel of the President or the Attorney General or the trial lawyers involved in the case, it seems to me, would have been, if what I did was improper, that would have been impropriety squared. That would have been the farthestest thing from my mind to do.

Senator INOUE. It is your testimony today that this meeting had nothing to do with the possible outcome of the trial?

Mr. EHRLICHMAN. Well, certainly, I can only speak for my motive and I think I can fairly speak for the motive of the President and the Attorney General, that that simply did not enter into it.

Senator INOUE. I have been sent this note from the chief counsel on the canon of ethics. It reads: "The attorney is under duty not to impair the confidence of the public and the integrity of the judiciary."

Mr. EHRLICHMAN. Well, I am afraid that is a great catchall. No. 1, of course, I was not—

Senator INOUE. Is that not rather clear?

Mr. EHRLICHMAN. Sir?

Senator INOUE. Did it give the impression to the public that an attempt was made to compromise Judge Byrne?



Mr. EHRLICHMAN. Well, if it were given, it was certainly a false impression. I am certainly comfortable in the precautions that I took in indicating to the judge that he was free not to engage in this conversation, that I was relying entirely on his own knowledge of the state of that case. And I do not know what else I could have done under the circumstances.

Senator INOUE. Mr. Ehrlichman, yesterday, you told the committee that you were not able to discuss the activities of the special investigations unit, the so-called Plumbers group, because the President has directed that the highest security classification be applied to the activities. Am I correctly stating your position, sir?

Mr. EHRLICHMAN. I am not sure that that was the reason that I intended to assign to that. In point of fact, executive privilege has also been invoked.

Senator INOUE. Do you or the President of the United States consider the activities of Mr. Hunt and Mr. Liddy in relation to Miss Dita Beard as vital to our national security?

Mr. EHRLICHMAN. No, sir, and I did not include it in that. I do not know about those activities, and they certainly had nothing to do with the activities of the special unit.

Senator INOUE. Were you not aware that Mr. Liddy and Mr. Hunt were involved?

Mr. EHRLICHMAN. No, sir.

Senator INOUE. When did you learn of this?

Mr. EHRLICHMAN. Well, I heard something in testimony here the other day about Liddy, and I have forgotten who testified that Liddy told him that he had taken her out of town. That is the first I had ever heard of that.

Of course, I heard about Hunt going to Denver some time ago in the press, but I do not believe that I had ever heard of that before that. And I think there is a lot of confusion about Hunt and Liddy's participation in this special unit.

So far as I know, after the break-in at Dr. Fielding's office, Hunt and Liddy ceased having participation in the investigations or the supervision of agencies by the special unit. I am not aware of any specific activities that either one of them engaged in for the special unit after, oh, about the 8th or 9th of September, something of that kind. So it would have been a total participation of July 24 to September 9, 8, someplace in there.

Senator INOUE. Do you recall the former Attorney General, Mr. John Mitchell, discussing the matter of White House horrors with you? Because he did testify that he discussed this with you in great detail.

Mr. EHRLICHMAN. I had never heard that phrase used until he appeared here.

Senator INOUE. Well, he described what he meant by that and one of the matters described was this involving Miss Dita Beard.

Mr. EHRLICHMAN. I do not believe that I have ever discussed that Dita Beard business or Hunt and Liddy with Mr. Mitchell.

Senator INOUE. You are suggesting that Mr. Mitchell's memory has failed him?

Mr. EHRLICHMAN. Well, let me go a little beyond that. I believe Mr. Mitchell testified that he was not aware of the Plumbers until some-

time later. My log will show that almost immediately after the President authorized this special unit the 24th of July, I scheduled a series of appointments with Cabinet officers to take Mr. Krogh and Mr. Young around and introduce them and to explain what this special unit was designed to do with relation to the stimulation of activities within the respective departments. I had an appointment with Secretary Laird, I had one with Director Helms, I also had one with Attorney General Mitchell with Mr. Krogh and Mr. Young, for just that purpose. That would have been late July or August of 1971. So I think Mr. Mitchell's recollection on this general subject may be a little hazy.

Senator INOUE. You are testifying here that you became aware of the involvement of Mr. Hunt and Mr. Liddy with Miss Beard, and that just came about recently, a few days ago.

Mr. EHRLICHMAN. Well, a few days. A few months ago. Hunt and Liddy simply went out of my, off my screen, so to speak, about the time of this Fielding break-in until one meeting which I referred to here the other day that I think Liddy was in sometime in the month of October, when he was back doing staff work with regard to straight domestic policy work for Mr. Krogh, which involved the organization of the Justice Department.

I think that is the only time that I thought of or heard about Hunt and Liddy subsequent to those dates in September.

Senator INOUE. When you heard of the Fielding break-in, did you disassociate yourself with that activity and admonish those who were responsible?

Mr. EHRLICHMAN. Yes, sir.

Senator INOUE. Did the President do likewise?

Mr. EHRLICHMAN. No, I don't think so. The President had no reason to, because I don't think he was informed of it.

Senator INOUE. I thought you testified to the effect that he advised the President of this break-in.

Mr. EHRLICHMAN. Well, no. As far as I know, the President learned of it from someone else, not from me. The first specific recollection I have of discussing this subject with the special unit activity with the President was in March of this year. Now, I may have had some conversation with him previous to that date, but I have no recollection of it.

Senator INOUE. Why didn't you do something about this?

Mr. EHRLICHMAN. Sir?

Senator INOUE. Why didn't you do something about Mr. Hunt and Liddy? There is nothing in the record to show that they were admonished or they were punished or they were put in bad graces.

Mr. EHRLICHMAN. Hunt and Liddy, as far as I assumed, had a complete defense in the sense that they were operating according to what they believed to be authorization. The reaction that I had to this when I heard about it was one of surprise and disapproval. My initial reaction was to pull them back from their trip West, which I suggested to Krogh be done immediately, and it was done, as far as I know.

Senator INOUE. So your response to Mr. Krogh—not your response, the White House response to Mr. Krogh's activity, was a Presidential appointment?

Mr. EHRLICHMAN. I think you have—if I could just finish the answer, and then we can come to this if you like, sir.

Senator INOUE. Please do so.

Mr. EHRLICHMAN. At that point in time, there were two what I suppose you would arguably call conflicting duties. To have imposed some kind of discipline, to have had them arrested, something of this kind, has been suggested as one of the alternatives. Obviously, the other alternative was to pursue this national security investigation as vigorously as we could and not compromise it if we could possibly avoid it. You get into these conflicting duty situations, as you know, Senator, at times, and you have to take the main chance. You have to do the thing that is more important to the country and not do the other thing.

It occurred to me the other day that it's very much analogous to the dilemma of this committee, where you are confronted with the conflicting rights of individuals, who may be prejudiced by this whole process on the one hand, and what you conceive to be the larger national interest. And you have resolved that conflict in favor of the larger national interest, even though some individuals may be harmed in the long pull by the process. And I can understand that.

At the same time, when you find yourself in the bite of that line, sometimes it's hard to explain from a hindsight standpoint your evaluation of what the more important thing to do was.

Senator INOUE. What was the larger national interest?

Mr. EHRLICHMAN. The larger national interest, sir, was in finding out all we could about who and in what circumstances these vital national secrets, these top-secret documents, were compromised.

Senator INOUE. Did it also include the prosecution of Dr. Ellsberg?

Mr. EHRLICHMAN. No, that was really not what this was about. The Justice Department was well underway on that and they were handling that and they continued to handle it. This was a particular undertaking to try and find out how this happened, who did it, how it could be prevented in the future.

Senator INOUE. I have many other questions, Mr. Ehrlichman, but my time is up. I have just one final question, sir.

You have maintained throughout that in all of your service in the White House, especially in those activities evolving around the Watergate, you did no wrong.

Is that correct, sir?

Mr. EHRLICHMAN. Yes, sir.

Senator INOUE. That every act on your part was legal, proper, and ethical?

Mr. EHRLICHMAN. That is my belief, and I trust that is true.

Senator INOUE. If that is the case, why did the former Attorney General of the United States cite your resignation as evidence of the President lowering his boom?

Mr. EHRLICHMAN. Well, I suppose that was a convenient landmark at that time and he undoubtedly is not aware of the President's considerations and motives at the time that I resigned.

Senator INOUE. If you are clean, why did he fire you?

Mr. EHRLICHMAN. He didn't fire me, sir.

Senator INOUE. Why didn't he insist that you stay on board?

Mr. EHRLICHMAN. Well, as a matter of fact, the proposal for me to resign came from me. It did not come from him. At the time that I talked with him on the telephone—and I am trying to remember the date; it would have been the 28th or 29th of April, just, in any way, leading up to my trip to Camp David on the 29th—the state of things

was that I was to take a leave of absence, but stay on the White House staff and continue to perform as many of my functions as possible, given the need to answer charges and do all these other collateral things. The President was quite content with that at that time. Bob Haldeman and I talked. We felt that from our respective standpoints, that was simply not realistic. It was not viable. And it was we that proposed to the President that we make a clean break rather than the other way around.

Senator INOUE. And you are maintaining that you had no knowledge of the coverup and you further maintain that the mastermind of the coverup was John Wesley Dean III?

Mr. EHRLICHMAN. Well, I would like to speak for myself. I had no part in any coverup. I am not here to make charges against other people. As you say, this is not an accusatory forum. I think the evidence will speak for itself when it is all in and then either you or the public or someone will be in a very good position to decide the answer to that second question.

Senator INOUE. I would hope that the President of the United States will release those tapes, because it will help to clear the evidence, sir.

Thank you very much.

Mr. EHRLICHMAN. Thank you, sir.

Senator ERVIN. Senator Weicker.

Senator WEICKER. Mr. Ehrlichman, this morning, I believe you discussed the justification for the Plumbers group. I had a question on my pad which was asked by another member of the committee as to why the Plumbers, why not the FBI?

I believe, and you correct me if I am in any way stating this or paraphrasing it incorrectly, that your response was that you were not getting cooperation from the FBI and had the opposition of the Director, Mr. Hoover, and that was the justification for the Plumbers.

Now, is that correct?

Mr. EHRLICHMAN. No. The special unit itself was created in response to a strong feeling by the President that the White House had to more closely supervise the departments, the agencies, in their efforts—that is, in the departments' and agencies' efforts—to do their own job inside the departments and agencies in plugging leaks, finding out who were disseminating these documents, and so forth. So the origin of that unit and the original reason for their being was for that purpose. It was not originally set up as a police organization or an investigatory organization or anything of that kind.

But then, when Mr. Krogh ran into this hard place in getting information, it was a last resort to use these two people who were in the unit to do this one particular investigatory job.

Senator WEICKER. Because, in fact the information could not be obtained by the FBI, is that correct?

Mr. EHRLICHMAN. Would not, yes.

Senator WEICKER. Would not.

I would like to read to you, and I believe your counsel has handed you an exhibit or rather a letter, which I would hope we would make an exhibit, dated August 3, 1971, from the Federal Bureau of Investigation. This was some time before the actual break-in. It is a letter to Mr. Krogh from the Director, J. Edgar Hoover, and I would like to read the letter.

Hon. EGIL KROGH,  
*Deputy Assistant to the President for Domestic Affairs, The White House,*  
*Washington, D.C.*

DEAR MR. KROGH: By letter dated July 29, 1971, the President advised me that he had directed that you examine in depth the circumstances of the many recent disclosures of Top Secret and other sensitive material to the public. He asked that I forward to you all information acquired to date, including individual reports for interviews, with respect to 17 persons who were named in an attachment to his letter. One of these was Daniel Ellsberg, principal suspect in the disclosure of the "McNamara Study" to various newspapers. He asked that a comprehensive background paper on Ellsberg be sent to you.

Enclosed are 17 memoranda containing the information mentioned by the President. We have interviewed five of the individuals involved in connection with our investigation in the Ellsberg case. We also endeavored to interview a sixth one, Mr. Charles M. Cooke, but he declined to submit to interview by the FBI without the specific clearance of Deputy Attorney General Richard G. Kleindienst.

If you concur, we will proceed with interviews of all of the remaining individuals except Daniel Ellsberg.

By separate communication, I am furnishing a copy of each of the enclosures to the Attorney General. Upon removal of the classified enclosures, this transmittal letter may be declassified.

Sincerely yours,

J. EDGAR HOOVER.

Senator ERVIN. The reporter will mark the letter with the appropriate exhibit number.

[The letter was marked exhibit No. 94.\*]

Senator WEICKER. Would you say this is fairly clear evidence that the FBI was perfectly willing to perform its functions insofar as the Ellsberg matter was concerned?

Mr. EHRLICHMAN. Well, I don't think I am able to respond to that, Senator. I think all of us who have had experience with Mr. Hoover recognize that letters of this kind were a method that he had frequently of justifying shortfall in performance by the Bureau. I don't know whether this was window dressing or what this was. It was obvious that the President had, at Mr. Krogh's request, shaken up the Director, and I will say that over a period of a couple of months the result of having appointed the special unit and the result of having—the President having—told Mr. Hoover that he was having to resort to sending two people out there from the White House caused the Bureau to wake up on this thing.

Now, this comes rather early in the process and looks to me like, I don't know, but it looks to me like Mr. Hoover was sort of cleaning out the drawers and sending over everything that had been accumulated to that time. Most of what was sent over, I will bet you, was old hat stuff.

I do have a very vivid recollection of conversations, prior to this date but around this period of time, with both Mr. Krogh and Mr. Mitchell, where the problem of the Bureau's lethargy was discussed. The reason for the President's call and followup letter to Mr. Hoover was because of this lethargy, and I don't think it is going to be possible to make the case that the Bureau was just on its tippy-toes doing everything it should right at this period of time. The fact that the President had to call, had to write, the fact that Krogh was banging me, the fact that I was over on the Attorney General asking him, and then the Attorney General coming back to me and saying, "Well, we are at a

\*See p. 2655.

hard place in this" is all, I think, a matter of record. It will take some digging to get into but I think it is there, and you all could adduce it.

Counsel suggests that it might be well to know if there is any other more or less contemporaneous course upon Dean, a reply back from Mr. Krogh or anything to indicate whether he agreed with the assumptions stated here that would set this more or less in context.

Senator WEICKER. I will let the letter go ahead and speak for itself. I have no further correspondence to go ahead and submit at the time but I would ask this question: Do you feel, in other words, Mr. Hoover is lying in this letter?

Mr. EHRLICHMAN. No, I think Mr. Hoover is resorting to a well-known bureaucratic device of papering the file and particularly a device that is familiar to those who have seen the President shake up somebody in one of the departments or agencies. You immediately get an enormous column of justification back and when you thumb through it you see most of it is stale bread. It is old stuff that has been in the file and they put together a big package and they send it over hoping that the sheer volume is going to impress you or make you think that everything is OK or that, you know, it is a thing I have seen dozens and dozens of times since I have been here.

Senator WEICKER. Would you advise then that every time a department or an agency of this Government falls short that rather than remove the head of that agency or department we set up a similar function on a secret basis?

Is that the way we are going to handle it?

Mr. EHRLICHMAN. Oh, no, no, indeed, no indeed, and I think in retrospect, and I think you will recognize that all through this proceeding we keep coming back to Bureau problems, I think in retrospect that the administration would have been far better off if Mr. Hoover had been retired earlier, predating this episode, because many, many of the problems that we encountered were as a result of Mr. Hoover's very fixed views, very sincere. He was alert and he was sincere, he was patriotic but he was certainly fixed in his views, and it made operation very, very difficult.

Now, when you run across a situation where you have a retirement of that kind that is politically sensitive and difficult, sometimes the decision is made to postpone the retirement, and when that happens, then you simply have to find other ways of doing things.

Senator WEICKER. In other words, what I gather you are saying he was fixed in his views to the extent that he would not agree to a break-in of Daniel Ellsberg psychiatrist's office?

Mr. EHRLICHMAN. That of course overstates it dramatically, Senator. What he would not agree to was an investigation of Mr. Marx and others close to Daniel Ellsberg.

Senator WEICKER. Well now, Mr. Ehrlichman, we have a letter saying he will agree to go ahead and investigate that is sitting right there before you.

Mr. EHRLICHMAN. Well, frankly, Senator—

Senator WEICKER. I am asking you is he lying?

Mr. EHRLICHMAN. No, I don't see for instance Mr. Marx's name in there, and I don't know what the list is that that letter refers to. Maybe Mr. Marx's name is on it.

Senator WEICKER. He says "If you will concur, we will proceed with interviews with all the remaining individuals."

Mr. EHRLICHMAN. Who are they, Senator? I honestly don't know. I don't remember ever seeing that letter. I can tell you this: That by, oh, the 20th of September of that year, the Bureau was checking on all eight cylinders, they were aboard, and Bureau work was moving ahead, and we were past the problem.

Senator WEICKER. Past what problem?

Mr. EHRLICHMAN. Sir?

Senator WEICKER. Past what problem?

Mr. EHRLICHMAN. This view of the Director's that he would not treat this as a principal case.

Senator WEICKER. In other words, we established the principle that breaking and entering was a proper method?

Mr. EHRLICHMAN. No, no. I reject that totally. I can't accept that. The Director was never involved in any conception of breaking or entering or anything of that kind.

Senator WEICKER. What does checking along on all eight cylinders mean?

Mr. EHRLICHMAN. I mean they were treating this investigation as a principal case and was getting the kind of top priority that Mr. Krogh very much wanted for it.

Senator WEICKER. So that, in effect, the Director was not lying but he was merely stroking, I think that is the White House expression, is it not, stroking?

Mr. EHRLICHMAN. No.

Senator WEICKER. Mr. Krogh by means of a letter and, in effect, not doing the job?

Mr. EHRLICHMAN. I don't think stroking is the apt term there. I think perhaps, we think of this more as puffing than stroking.

Senator WEICKER. As what?

Mr. EHRLICHMAN. Puffing.

Senator WEICKER. Puffing. I see.

Mr. WILSON. Senator Weicker, may I ask your permission to interrupt you a moment?

Senator WEICKER. Counselor, go right ahead.

Mr. WILSON. To address the Chair.

Mr. Chairman, I know that this document was exhibit No. 2 of the executive session. Will you be kind enough to ask your staff if there is a series of documents relevant to this document which followed it or to tell me that you don't have any.

Mr. DASH. You have, I think, already, Mr. Wilson, seen two other documents that the memorandums that have already been shown yesterday to Mr. Ehrlichman were also exhibits in the executive session.

Mr. WILSON. That does not answer my question, Mr. Dash. My question is, for example, did Mr. Krogh reply to the Director's letter. Were there internal memorandums that you have picked up. In other words, the witness has been handed one letter and the fact is in suspense. I want to know if you possess, if you please, if the chairman will permit it.

Senator ERVIN. Yes, sir.

Mr. WILSON. A sequence of letters or internal memorandums following this or that you assure me that you don't have any.

Mr. DASH. This is the only document in this correspondence that was submitted in executive session of this case.

Mr. WILSON. I ask you another question. Is it the only document you have in the possession of the staff relating to this same subject matter?

Mr. DASH. I am sorry, I didn't hear your question.

Mr. WILSON. In other words, you just answered me that no other document relating to this was exhibited in executive session. My question, with the chairman's permission, whether there are other documents in sequence in the possession of the staff?

Mr. DASH. In sequence of this letter?

Mr. WILSON. Yes, sir.

Mr. DASH. No.

Mr. WILSON. Thank you.

Senator WEICKER. Now, I would like to, if I could, clear up some matters relative to explanations, your explanations of the Ellsberg break-in.

On June 28, 1973, you stated in a television interview that, relative to what you told Krogh:

Well, I expressed my disapproval in the strongest kind of terms as he said and, as a matter of fact, made clear that I thought that this whole investigation ought to be terminated with these people. That they did not evidence good judgment and that ought to be the end of it.

That was your statement in this particular television interview.

How does your statement to Mr. Wallace less than a month ago stand up against your statement to this committee that you believe the break-in was a proper enterprise since it was done in the name of national security?

Mr. EHRLICHMAN. Senator, I have said just this afternoon essentially the same thing you just read. I had not contemplated this break-in, it was a surprise to me. I felt that it was a mistake. I asked these people to be brought back, and I think not 30 minutes ago I said so here. At the same time, taken as a part of a chain, referring now to the activities of the special unit, and going to the question which the chairman and Mr. Wilson were talking about this morning, I do not think there is any question about the legal foundation which exists for an activity of this kind. I am the sort of person who does not like surprises, and when I understand that an investigation is underway, certainly an event of this kind takes me aback, and it took me aback.

Senator WEICKER. I am not sure I understand either your words or the words of your counsel. Are we either justifying the break-in or are we condemning the actions of Hunt and Liddy?

Mr. EHRLICHMAN. Well, I think there are a couple of subjects there, and I think the way we got into all of this in the first instance was as to whether or not I had a concern about the propriety, speaking of the legalities now, of the propriety of this event a year later at the time of the Watergate break-in to the extent that I was willing to suborn the perjury or bribery or all of these things that have been charged, and my response to that was that I felt comfortable with the propriety from a constitutional and legal standpoint at the time of the Watergate break-in and that had been my conviction and conclusion for some time.

Now, I did not express disapproval to Mr. Krogh because I felt some technical illegality had occurred. I felt that it showed bad judgment,



it was a surprise, it was not anything that had been contemplated or approved, and I felt that those fellows ought to be brought back.

Senator WEICKER. So your disapproval was on the basis of you were surprised?

Mr. EHRLICHMAN. I certainly was.

Senator WEICKER. Was that the basis of your disapproval?

Mr. EHRLICHMAN. No, my disapproval was because these people, as far as I knew, had been sent out there to do an investigation. I was under the assumption that it would be conducted as a normal investigation, not as some kind of a second-story job, and when I heard this my initial reaction to it was somebody has not exercised good judgment. Now, I am still operating under the assumption that that judgment was not exercised, at least independently by Hunt and Liddy. I have been under the assumption right along that they were operating pursuant to what they thought was approval. And so I am in a hard place to say that they are, in response to your question, they are to be condemned or fired or something of this kind.

Senator WEICKER. Are you telling me, in other words, that you thought it was constitutional but that it was botched, is that right?

Mr. EHRLICHMAN. Well, I do not know what botched means. There is no question in my mind if the thing had been presented to me in the terms that it occurred and I had been asked for approval or disapproval I would have disapproved it.

Senator WEICKER. All right. So that it was constitutional but that it was embarrassing. Would that be a better word?

Mr. EHRLICHMAN. Well, it certainly was potentially not only embarrassing in a, what, a political sense, or something of that kind, but totally out of keeping with the concept here. These fellows were going out as substitutes for the FBI, and the method, the style, the degree of investigation, which I understood was going to be conducted, would have been commensurate with that, not some different kind of category of investigation.

Senator ERVIN. There is a vote on in the Senate and so the committee will stand in recess so that members of the committee can go and vote.

[Recess.]

Senator ERVIN. I am going to respectfully request the audience not to make any kind of a demonstration or indicate in any way their approval or disapproval of anybody or anything, including myself.

[Laughter.]

The Senate is going to have several more votes, and there will be very little interrogation of the witness until the morning. But I do want to take this occasion to amplify the legal discussion and I want to mention a little, of the Bible, a little of history, and a little of law.

The concept embodied in the phrase every man's home is his castle represents the realization of one of the most ancient and universal hungers of the human heart. One of the prophets said—described the mountain of the Lord as being a place where every man might dwell under his own vine and fig tree with none to make him afraid.

And then this morning, Senator Talmadge talked about one of the greatest statements ever made by any statesman, that was William Pitt the Elder, and before this country revolted against the King of England he said this:

The poorest man in his cottage may bid defiance to all the forces of the crown. It may be frail, its roof may shake, the wind may blow through it, the storm may enter, the rain may enter, but the King of England cannot enter. All his force dares not cross the threshold of the ruined tenements.

And yet we are told here today, and yesterday, that what the King of England can't do, the President of the United States can.

The greatest decision that the Supreme Court of the United States has ever handed down in my opinion is that of *Ex parte Millikin* which is reported in 4 Wallace 2, and the things I want to mention appear on page 121 of that opinion.

In that case President Lincoln, or rather some of his supporters, raised a claim that since the Civil War was in progress that the military forces in Indiana had a right to try for treason, a man who they called Copperheads in those days, who were sympathetic toward the South—a civilian who had no connection with the military forces. So they set up a military commission and they tried this man, a civilian, in a military court, and sentenced him to death.

One of the greatest lawyers this Nation ever produced, Jeremiah Black, brought the battle to the Supreme Court and he told in his argument, which is one of the greatest arguments of all time, how the Constitution of the United States came into being. He said that the people who drafted and ratified that Constitution were determined that not one drop of the blood which had been shed throughout the ages to wrest power from arbitrary authority should be lost. So they went through all of the great documents of the English law from Magna Carta on down, and whatever they found there they incorporated in the Constitution, to preserve the liberties of the people.

Now the argument was made by the Government in that case that although the Constitution gave a civilian the right to trial in civilian courts, and the right to be indicted before a grand jury before he could be put on trial and then a right to be tried before a petit jury, the Government argued, that the President had the inherent power to suspend those constitutional principles because of the great emergency which existed at that time, when the country was torn apart in the civil strife.

The Supreme Court of the United States rejected the argument that the President had any inherent power to ignore or suspend any of the guarantees of the Constitution, and Judge David Davis said, in effect:

The good and wise men who drafted and ratified the Constitution foresaw that troublous times would arise, when rulers and people would become restive under restraint and seek by sharp and decisive measures to accomplish ends deemed just and proper, and that the principles of Constitutional liberty would be put in peril unless established by irrevocable law.

Then he proceeded to say:

And for these reasons, these good and wise men drafted and ratified the Constitution as a law for rulers and people alike, at all times and under all circumstances.

Then he laid down this great statement:

No doctrine involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government.

And notwithstanding that we have it argued here in this year of our Lord 1973 that the President of the United States has a right to sus-

pend the fourth amendment and to have burglary committed just because he claims, or somebody acting for him claims, that the records of a psychiatrist about the emotional or mental state of his patient, Ellsberg, had some relation to national security.

Now, President Nixon himself defined the national security in one of his directives as including only two things: national defense, and relations with foreign countries. How in the world opinions of a psychiatrist about the mental state or the emotional state or the psychological state of his patient, even if his patient was Ellsberg, could have any relation to national defense or relations to a foreign country is something which eludes the imagination of this country lawyer.

Now, I would like to ask you one question: Why, if the President has this much power, would he not have had the inherent power to have sent somebody out there with a pistol and had it pointed at the psychiatrist and said, "I am not going to commit burglary; I am just going to rob you of those records and give me the records," would he not have had that right under your theory?

Mr. EHRLICHMAN. Are you asking me, Mr. Chairman?

Senator ERVIN. Yes.

Mr. EHRLICHMAN. I think that is the same question Senator Talmadge approached, and undoubtedly in a situation such as I put—for instance, where you knew there was going to be an atomic attack tomorrow—undoubtedly a measure of that kind might be necessary.

Senator ERVIN. Was there—

Mr. EHRLICHMAN. Now, somewhere in between there is a line.

Senator ERVIN. Will you please—

Mr. EHRLICHMAN. And the line depends, obviously, on a lot of things that you and I cannot settle here today.

I think the thing that your argument artfully chooses to avoid dealing with—

Senator ERVIN. I am not trying to avoid anything. I am trying to get this proposition to whether the President has power to suspend the fourth amendment to get on—

Mr. EHRLICHMAN. Mr. Chairman, you interrupted me. You have a delightful trial room practice of interrupting something you do not want to hear. [Laughter.] I would like, if I could, to finish the sentence.

The connection, of course, between the psychiatrist's records and the psychiatric profile, and the determination of whether there was a spy ring or a foreign conspiracy which had taken these top secret documents and delivered them to a foreign power, it seems to me, is an unbroken chain of circumstances that explains itself.

Now, I recognize for the purpose of your rhetorical approach to the problem that it is fun to say how could a man's emotional state be equated with national security? But in fact, there is a direct linkage step by step in this, which I think we have to lay on the table and look at.

Now, this business of going and pointing a gun at somebody, I can conceive of a set of circumstances, a different kind of national security situation, such as this impending attack or something of that kind hypothetically where such a measure might very well be the very thing that the President might determine was necessary, and you will recall that the Congress, in recognizing this power, said, "Such means as the President shall determine." And that I think, as Mr.

Wilson pointed out this morning, was endorsed by the committee of which you are the chairman, sir.

Senator ERVIN. Well, that is not what that bill said. It said that the President could exercise his constitutional powers when he determined, according to his determination. It didn't say he had any constitutional powers such as you state, because Mr. Wilson and myself both agreed that the court in this case, the thing it held principally, was that you couldn't exercise electronic surveillance without a warrant complying with the fourth amendment for the purpose of gathering intelligence about domestic subversion, and we also agreed that the decision itself flatly held that the statute had nothing whatever to do with the question of national security.

Mr. WILSON. Mr. Chairman, can I get into this?

Senator ERVIN. Yes, sir.

Mr. WILSON. I think this morning you referred to the Judge Field case which is strictly known as *Cunningham v. Nagle*, isn't it? Do you remember that case?

Senator ERVIN. Yes, I remember the case. That held that a Federal marshal wouldn't be guilty of murder for shooting a man that was trying to kill a Federal judge.

Mr. WILSON. What was the statute based upon but the constitutional right?

Senator ERVIN. I don't know. I don't recall; it has been a long time since I have read it.

Mr. WILSON. Shall I prepare—

Senator ERVIN. It wasn't based on section 2511 of title 18 of the United States Code.

Mr. WILSON. No, but it was murder though; it was homicide.

Senator ERVIN. Yes.

Mr. WILSON. Justifiable homicide in a statute which was supported by constitutional theory.

Senator ERVIN. And it happened in California, and it was justified, by the principle of the common law, that one person can kill another to prevent the consummation of a felony.

Mr. WILSON. Is this something that happened in California and no place else in the country?

Senator ERVIN. In a law in any State which had a common law system.

Mr. WILSON. We have that everywhere in the country except California and Louisiana.

Senator ERVIN. I am unfortunately going to have to obey the 5-minute notice about a vote, but I have no quarrel with the *Nagle* case, but I do think the *Nagle* case merely applied the rule that one had a right to kill another to prevent a wrongdoer from committing a murder.

Mr. WILSON. All I say is there is a murder case that was justified.

Senator ERVIN. I regret I have to go and vote, and I would love to prolong this debate with you.

Mr. WILSON. I would, too.

Senator ERVIN. I think maybe because of the lateness of the hour, that we had just better recess until in the morning at 10 o'clock.

Mr. WILSON. Thank you.

[Whereupon, at 4:45 p.m., the hearing was recessed, to reconvene at 10 a.m., Thursday, July 26, 1973.]

**EXHIBITS SUBMITTED FOR THE RECORD**

**EXHIBIT No. 87**

**WATERGATE SPECIAL PROSECUTION FORCE**  
**United States Department of Justice**  
**1425 K Street, N.W.**  
**Washington, D.C. 20005**

**June 12, 1973**

**Mr. Fred M. Vinson, Jr., Esq.**  
**800 17th Street, N.W.**  
**Washington, D. C.**

**Dear Mr. Vinson:**

The Government will accept a guilty plea from Mr. Fred LaRue to a one count indictment or information charging a conspiracy to obstruct justice. This will dispose of all other potential charges against your client which might otherwise arise out of the investigation of the so-called Watergate incident and the alleged cover-up relating thereto, including without limitation possible violations of the Federal Election Campaign Act and the Corrupt Practices Act. The Government will join with you in urging that Mr. LaRue's sentencing be deferred until after the trial of those implicated by testimony already given by Mr. LaRue and that Mr. LaRue be permitted to remain on bond or on recognizance pending sentence in order to facilitate his cooperation with the Government.

Finally, this understanding is predicated upon Mr. LaRue's complete cooperation with the Government, including the immediate, full and truthful disclosure of all information in his possession. Ultimately, of course, he will be required to testify as a witness for the Government in any and all cases with respect to which he may have relevant information. The extent of his cooperation will be brought to the Court's attention by the Government before sentencing.

Sincerely,

*Archibald Cox*

**ARCHIBALD COX**  
**Special Prosecutor**

## EXHIBIT No. 88

## WILKINSON, CRAGUN &amp; BARKER

## LAW OFFICES

## THE OCTAGON BUILDING

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ANGELO A. IADAROLA  
PAUL S. QUINN  
LEON T. KNAUER  
RICHARD A. BAENEN  
JERRY C. STRAUS  
HERBERT E. MARKS  
PIERRE J. LAFORCE  
FRANCES L. HORN

May 9, 1973

\* Not admitted in the  
District of Columbia

Fred M. Vinson, Esquire  
800 17th Street, N.W.  
Washington, D.C. 20006

Dear Fred:

Enclosed for your information is a copy of a  
letter sent by The Honorable Maurice H. Stans to your  
client, Fred LaRue today.

Sincerely yours,

WILKINSON, CRAGUN &amp; BARKER

By: Robert W. Barker

cc: Hon. Maurice H. Stans

## FINANCE COMMITTEE TO RE-ELECT THE PRESIDENT

1701 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D. C. 20006 • (202) 333-0226

May 9, 1973

MAURICE H. STANS  
CHAIRMAN

Mr. Fred C. LaRue  
Watergate South  
Virginia Avenue, N.W.  
Washington, D.C. 20037

Dear Mr. LaRue:

This letter is to request that you pay over to the Finance Committee to Re-Elect the President certain funds you have heretofore held. The amounts are:

1. \$39,000. These funds, received by you in about October, 1972, can now be taken into the Committee because we now have obtained the names and addresses of the intended contributors.

2. As part of \$81,000 delivered to you in late June or early July of 1972, you undertook to return the sum of about \$3,000 to two agricultural men. We have been able to identify these two persons. In the event this sum has not been returned, please pay it over to this Committee.

3. We understand that you have, in fact, returned the sum of \$10,000 to Mr. and Mrs. Charles Saunders of Mississippi, as we requested last summer. If this is not correct, please advise us of the current status of those funds.

4. In addition, it has been reported by Mr. Hugh Sloan, Jr., that the sum of \$50,000, which he had obtained from Mr. Bart Porter in May, 1972, was included in the \$81,000. If this is true, please turn those funds over to the Committee and furnish us the names and addresses of the persons who tendered the funds. In the event you do not have the names and addresses of the persons who made the tender, please advise us and hold the funds in escrow pending our completion of efforts through Mr. Porter to identify the source of the funds.

Please act on this request without delay so we can receipt this money and report it in the next report of this Committee to the General Accounting Office.

Sincerely yours,

FINANCE COMMITTEE TO RE-ELECT  
THE PRESIDENT

*Maurice H. Stans*  
By: Maurice H. Stans  
Chairman

## WILKINSON, CRAGUN &amp; BARKER

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ALAN I. RUBINSTEIN  
PHILIP A. NACKE  
H. MICHAEL SEMLER  
THOMAS E. WILSON

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PAUL S. QUINN  
LEON T. KHAUER  
RICHARD A. BAENEN  
TERRY C. STRAUS  
HERBERT E. MARKS  
PIERRE J. LAFORE  
FRANCES L. HORN

\* Not admitted in the  
District of Columbia

May 17, 1973

Fred M. Vinson, Jr., Esquire  
800 - 17th Street, N. W.  
Washington, D. C. 20006

Thank you for your letter of May 16, 1973, which clarifies some of the financial matters handled by Fred LaRue. I have the following further comments:

1. I understand that \$3,000 of the \$25,000 item received from Tim Babcock was given to Mr. LaRue. Added to the \$14,000 which you acknowledge, this would make a total of \$17,000 to be accounted for. I suggest that this amount now be paid to the Finance Committee to Re-Elect the President.

2. Out of the \$81,000 received by Mr. LaRue in late June or early July, I understand that he has paid \$30,000 to Anna Chennault for return to foreign nationals, \$10,000 to Max Fisher for expenses and \$10,000 to Mr. & Mrs. Charles Saunders as a return of their contribution. This leaves \$31,000 of these funds still in his hands, which I suggest now be paid to the Finance Committee to Re-Elect the President.

In other words, if Mr. LaRue will now pay over \$48,000 at this time, it will balance all the accounts of which the Finance Committee has present knowledge.

Sincerely,

WILKINSON, CRAGUN &amp; BARKER

  
By: Robert W. Barker



May 16, 1973

Robert W. Barker, Esquire  
Wilkinson, Cragun & Barker  
1735 New York Avenue, N. W.  
Washington, D. C. 20006

Dear Mr. Barker:

This will acknowledge your letter to me of May 9 and a copy of Mr. Stans' letter of May 9 to my client, Fred LaRue. I am responding to the latter on behalf of Mr. LaRue. With respect to the numbered paragraphs of Mr. Stans' letter:

1. We assume that the \$39,000 referred to here involved a gentleman named Mr. Babcock. Mr. LaRue recalls receiving \$14,000 cash at a meeting at which Messrs. Babcock and Stans were present. Mr. LaRue states that he did not receive the additional \$25,000. It is Mr. LaRue's recollection that this occurred around January 1973.

2. Mr. LaRue acknowledges the receipt of approximately \$81,000 in late June or July of 1972. He did not return the sum of \$3,000 to which Mr. Stans' letter refers.

3. Mr. LaRue tells me he did return the sum of \$10,000 to Mr. Charles Saunders of Mississippi, as he was requested to do. In addition, at Mr. Stans' request, he returned \$30,000 to Mrs. Anna Chennault in the late summer or fall of 1972.

4. Mr. LaRue has no knowledge of the source of the money included in the \$81,000 referred to in Item 2 above.

In addition to the monies referred to above, Mr. LaRue received money from Messrs. Kalmbach and Strachan, and perhaps Mr. Dean, much of which was disbursed by him at the direction of others.

At this time Mr. LaRue has on hand, in a special bank account, \$112,850, which he would like to turn over to some appropriate person.

Sincerely,

FMV:mfc  
cc Mr. Fred LaRue

Fred M. Vinson, Jr.

May 30, 1973

Robert W. Barker, Esquire  
Wilkinson, Cragun & Barker  
The Octagon Building  
1735 New York Avenue, N. W.  
Washington, D. C. 20006

Dear Mr. Barker:

This will acknowledge your letter of May 17, 1973, concerning certain financial matters related to the Finance Committee to Reelect the President. In response to your letter:

1. Mr. LaRue states that he did not receive \$3,000 from the \$25,000 you described as being received from Mr. Babcock.

2. Mr. LaRue states that he did not give \$10,000 to Mr. Fisher, but that he did deliver \$10,000 to Mr. Stans which may have been transmitted to Mr. Fisher.

When I related the above to you on the telephone, you stated that the Finance Committee to Reelect the President still wished to have Mr. LaRue pay over \$48,000 from the monies he holds at this time. A check drawn by Mr. LaRue on the special bank account described in my letter of May 16 in the amount of \$48,000 is enclosed.

The balance in that special account (\$64,850) he would like to pay over to an appropriate person or entity.

Sincerely,

Fred M. Vinson, Jr.

FMV:mfc

Enclosure

## WILKINSON, CRAGUN &amp; BARKER

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LEON T. KNAUER  
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STEPHEN R. BELL  
THOMAS J. BACAS  
FOSTER DEREITZES  
ALAN I. RUBINSTEIN  
PHILIP A. NACKE  
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THOMAS E. WILSON

\* Not admitted in the  
District of Columbia

June 20, 1973

Fred M. Vinson, Jr., Esquire  
Reasoner, Davis & Vinson  
11th Floor - Fleming Building  
800 17th Street, N.W.  
Washington, D.C. 20006

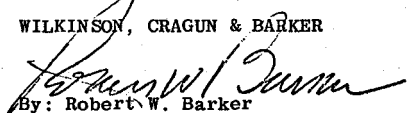
Dear Mr. Vinson:

On behalf of our client, Honorable Maurice H. Stans, Chairman of the Finance Committee to Re-Elect the President, we request that your client, Mr. Fred La Rue promptly pay over to the Finance Committee to Re-Elect the President, the sum of \$64,850, referred to in your letter of May 30, 1973 to me and furnish the Committee a statement of the source of the funds, to the best of Mr. La Rue's current knowledge.

Mr. Stans has advised me that the Committee will accept the funds from Mr. La Rue at this time with such a statement as to source, subject to subsequent clarification of the source should more facts come to Mr. La Rue's attention and subject to appropriate application of the funds in light of such facts.

Sincerely yours,

WILKINSON, CRAGUN &amp; BARKER

  
By: Robert W. Barker

cc: Hon. Maurice H. Stans

June 26, 1973

Robert W. Barker, Esquire  
Wilkinson, Cragun & Barker  
The Octagon Building  
1735 New York Avenue, N. W.  
Washington, D. C. 20006

Dear Mr. Barker:

This will acknowledge your letter of June 20 requesting that my client, Fred LaRue, pay over to the Finance Committee to Reelect the President the remaining sum of \$64,850 referred to in my letter to you of May 30, 1973. I enclose a check in that amount, drawn by Mr. LaRue on The Riggs National Bank, dated today and payable to the Finance Committee to Reelect the President.

You asked also that my client furnish a statement of the source of these funds. Mr. LaRue tells me that, earlier this year, he received approximately \$280,000 from Mr. Gordon Strachan. As Mr. LaRue states that this was the last money he received in this connection, it would appear to be the source of this transmittal to you.

Sincerely,

Fred M. Vinson, Jr.

FMV:mfc

Enclosure

**EXHIBIT No. 89**

(Copy illegible.)

"Unless you can come up with something better—Duke and I've agreed that's the way it is going to come out." First told me I had instructed him to give 816's to F.L.

Note: This printed matter is from handwritten notes which were not legible enough for photographing. The original copy is retained in committee files.

2643

EXHIBIT No. 90

THE WHITE HOUSE  
WASHINGTON

Date \_\_\_\_\_

For

Young / Krogh.

From John Ehrlichman

## THE WHITE HOUSE

WASHINGTON

August 11, 1971

MEMORANDUM FOR: JOHN D. EHRLICHMAN

FROM:

BUD KROGH AND DAVID YOUNG

SUBJECT:

PENTAGON PAPERS PROJECT - STATUS  
REPORT AS OF AUGUST 11, 1971

(1) Where things stand in the Grand Jury investigations.

The Los Angeles Grand Jury last week subpoenaed six people. Messrs. Burt Wallrich, Arne Guilfoile, Spencer Marx and Jackie Barnet all appeared and took the Fifth Amendment. Albert Appleby and Jane Youman are presently outside of California on vacation and will be subpoenaed when they can be served. Ellsberg's old telephone records were also subpoenaed but were not available since the records were not kept back that far. His BankAmericard records have also been subpoenaed but have not yet been received.

The Boston Grand Jury will meet next week. Justice has not made a final decision but is considering subpoenaing the following individuals:

Mrs. Louis Marx (mother of Mrs. Ellsberg)

Samuel Popkin (Harvard)

Richard Falk (Princeton)

Ralph Stavins (IPS)

Richard Barnet (IPS)

Marcus Raskin

K. Dunn Gifford (A friend of Sheehan and Ellsberg who stayed at Treadway Motor House March 20th, when Sheehan was there.)

Richard Steadman

It seems unlikely that Barnet, Raskin and Gifford will be called because they have been overheard.

(2) We have received the CIA preliminary psychological study (copy attached at Tab A) which I must say I am disappointed in and consider very superficial. We will meet tomorrow with the head psychiatrist, Mr. Bernard Malloy, to impress upon him the detail and depth that we expect. We will also make available to him here some of the other information

we have received from the FBI on Ellsberg. In this connection we would recommend that a covert operation be undertaken to examine all the medical files still held by Ellsberg's psychoanalyst covering the two-year period in which he was undergoing analysis.

Approve E

Disapprove

*if done under your assurance that it is not traceable.*

(3) We have received a letter from Director Hoover confirming that the Ellsberg case and related matters will be handled on a "Bureau Special" basis.

(4) We have tasked CIA with doing a leak assessment on all leaks since January, 1969, along the lines of the attached memorandum at Tab B.

(6) We are continuing to press the FBI to determine whether the report of a foot locker containing film magazines stored for Ellsberg with Bekins Van and Storage Company in California is indeed accurate, and what the content of the films is. The foot locker was apparently picked up by a friend of Ellsberg, a reporter for Dispatch News Service, David Obst, who indicated that the contents of the foot locker were needed for a book to be published in New York.

(7) Attached at Tab C is a memorandum from Richard Smyser on impact of (a) Ellsberg case, (b) an expose of the 1963 coup, and (c) the drug situation in South Vietnam, on (a) South Vietnamese election, (b) the U. S. election, and (c) on peace negotiations.



EXHIBIT No. 91

THE WHITE HOUSE

WASHINGTON

August 26, 1971

MEMORANDUM FOR: JOHN EHRLICHMAN

FROM: DAVID R. YOUNG

SUBJECT: STATUS OF INFORMATION WHICH CAN BE  
FED INTO CONGRESSIONAL INVESTIGATION  
ON PENTAGON PAPERS AFFAIR

Initial Situation

On July 20, 1971, after a meeting with Congressmen Hebert and Arends, Mardian, Macomber and Buzhardt reported that the Congressmen:

-- were willing to pursue the idea of an investigation;

-- would begin the investigation in a low key under a Subcommittee of the House Armed Services Committee. Beginning with the questions of security clearance, classification and declassification, they would then move into the more specific case of the Pentagon Study;

-- agreed that Mardian, Macomber and Buzhardt would set the format, supply the substantive data and develop the scenario.

At that time it was also believed that the principal person involved in the whole publication of the Pentagon Study was Ellsberg. On this basis it was estimated that it would take a little over 30 days to develop sufficient information for a Congressional investigation.

The plan then was to slowly develop a very negative picture around the whole Pentagon Study affair (preparation to publication) and then to identify Ellsberg's associates and supporters on the new left with this negative image. The end result would be to show (1) how they were

intent on undermining the policy of the government they were supposedly serving, and (2) how they have sought to put themselves above the law.

#### Present Situation

The above assumption that Ellsberg was the principal person responsible for the publication in the Times is no longer valid. In fact, it appears that those in Justice and Defense most familiar with this whole enterprise believe that substantial evidence is being developed for the criminal prosecution of individuals other than Ellsberg; namely, Gelb, Halperin, Warnke and Rand executives, Buzhardt states that only the FBI is disposed to thinking that Ellsberg is the sole prime mover.

In addition, the investigations have uncovered a proliferation of drafts involved in the 38, 43 and 47 volume sets and the number of copies of the sets has expanded far beyond what was initially estimated on the basis of distribution lists, etc.

It may well be that although Ellsberg is guilty of the crimes with which he is charged, he did not in fact turn the papers over to the New York Times. The Defense Department's analysis of the printed material may even show that Ellsberg did not have some of the papers which the New York Times printed.

Furthermore, the whole distribution network may be the work of still another and even larger network.

Examples of the types of problems which are presently being examined are as follows:

(1) The likelihood that a good portion of the four volumes were prepared in final during the spring of 1969 while Gelb was still at Defense, and Halperin at the NSC.

(2) The curious discovery that Bill Bundy received his 47-volume set two months before anyone else.

#### Status of Actions

-Over 30 people (some a number of times) have been interviewed by Defense and Justice, and this week investigative teams have been

dispatched to Europe and Vietnam.

- Buzhardt will be interviewing Clark Clifford this Friday.
- Buzhardt will interview William Kaufman shortly and this could be quite helpful in that Kaufman was one of the few people that apparently quit the project after protesting to Gelb that it was biased. Buzhardt has reason to believe that Kaufman will name names and identify those who were using the Study as a brief.
- An interview with McNamara will be conducted by Buzhardt as soon as McNamara returns from vacation in early September.
- An all-out adversary interrogation of Halperin, Gelb, Warnke, Rand executives and any other prime targets developed by that time is to be undertaken by Buzhardt's team shortly.

#### Comment

My own impression of Buzhardt (and most of the above is based on his investigations, since Mardian's boys are concentrating on Ellsberg) is that, although he is not moving as fast as we'd like, he should get us what we want. He believes that within 14 days, when he has been able to reach some reasonably certain preliminary conclusions, we will have a good basis for setting a Congressional strategy. He is convinced that at least Gelb and the Rand executives are lying in a very grave manner, and if he can prove this I think we'll have a good idea of where we want to go and how to get there.

#### Recommendation

That we give Defense and Justice a little more time to develop their cases and that we set up a strategy meeting for September 9, 1971, to determine an overall game plan.

Issues to be addressed would include the following:

- (1) If there is enough to bring criminal actions against Gelb, the Rand executives, etc., do we want to prosecute or do we want

to bring such material out through the Congressional investigation?

(2) If criminal prosecution is decided against for all except Ellsberg, when would it be most desirable to undertake the Congressional investigation?

(3) What strategy should be followed in the actual committee investigation (a) if only Ellsberg is to be prosecuted, or (b) if all the key persons are to be prosecuted?

(4) Do we want the Congressional investigation to also get into the substance of the Pentagon Study? If so, a game plan must be devised for determining what, when and how information should be fed to the committee.

(5) If the decision is made to move ahead in these substantive areas, careful consideration should be given to the effect of the credibility fallout on us. For this reason it might be best to stick with specific blunders such as the 1963 coup, the miscalculation on the need of forces, etc.

[NOTE: I am sending you a separate Hunt to Colson memorandum which attempts to select the politically damaging material involving the Democratic hierarchy. I personally believe a good deal more material could be developed along these lines. To begin with, we have Concin, Lansdale, Harkins and Nolting who could possibly be called upon to testify.]

(6) To what extent should we try to show the lack of objectivity and the intent of the participants in the Pentagon Study to distort and mislead. (Note that exploitation of this theme undercuts points (4) and (5).)

(7) Effect of South Vietnamese election on timing of investigation.

(8) Effect of Ellsberg trial which will now not come up before March of 1972 on timing of investigation.

(9) How quickly do we want to try to bring about a change in Ellsberg's image? \*

Action

That you schedule a strategy meeting on September 9th with Macomber, Mardian, Buzhardt, Krogh and Young. (I have discussed this approach with Bud and he is in agreement).

Approve \_\_\_\_\_ E

Disapprove \_\_\_\_\_

Other \_\_\_\_\_

\*In connection with issue (9), it is important to point out that with the recent article on Ellsberg's lawyer, Boudin, we have already started on a negative press image for Ellsberg. If the present Hunt/Liddy Project #1 is successful, it will be absolutely essential to have an overall game plan developed for its use in conjunction with the Congressional investigation. In this connection, I believe that the point of Buchanan's memorandum on attacking Ellsberg through the press should be borne in mind; namely, that the situation being attacked is too big to be undermined by planted leaks among the friendly press.

If there is to be any damaging of Ellsberg's image and those associated with him, it will therefore be necessary to fold in the press planting with the Congressional investigation. I mentioned these points to Colson earlier this week, and his reply was that we should just leave it to him and he would take care of getting the information out. I believe, however, that in order to orchestrate this whole operation we have to be aware of precisely what Colson wants to do.

Recommendation: That you sign the memorandum to Colson asking him to draw up a game plan (Tab A).

*Tab A as rec'd 9/17*

August 27, 1971

MEMORANDUM FOR CHARLES COLSON

FROM JOHN EHRLICHMAN

SUBJECT HUNT/LIDDY SPECIAL PROJECT #1

On the assumption that the proposed undertaking by Hunt and Liddy would be carried out and would be successful, I would appreciate receiving from you by next Wednesday a game plan as to how and when you believe the materials should be used.

A TRUE COPY

## EXHIBIT No. 93

## A F F I D A V I T

CITY OF WASHINGTON )  
 ) ss.  
 DISTRICT OF COLUMBIA )


I, HENRY E. PETERSEN, being first duly sworn, state:

1. I am an Assistant Attorney General, United States Department of Justice, in charge of the Criminal Division. Since March 26, 1973, and only since that time, I have had the primary supervisory responsibility for the Department of Justice in connection with the case of United States v. Anthony Joseph Russo, Jr., et al., No. 9373-WMB-CD, now on trial in the Central District of California.

2. I have had no information regarding an alleged unlawful entry on or about September 3, 1971, by persons then connected with the Government into the office of Daniel Ellsberg's psychiatrist until April 16, 1973, when an allegation contained in a memorandum from Earl J. Silbert, Principal Assistant, United States Attorney's Office, Washington, D.C., was submitted to me.

3. I am unaware of any information received by the Department of Justice in connection with its investigation of the unauthorized disclosure of the Pentagon Papers and in the case of United States v. Anthony Joseph Russo, Jr., et al. which came, or could have come from the alleged burglary by E. Howard Hunt, G. Gordon Liddy and others of the office of Daniel Ellsberg's psychiatrist, Dr. Lewis Fielding.

4. The xerox copies of photographs of what apparently are exterior shots of the building and parking lot in which Dr. Fielding's office is located were first delivered to the Criminal Division of the Department of Justice in about October of 1972 by the Central Intelligence Agency in connection with requests made by the prosecutive staff of the so-called Watergate case for background information pertaining to certain of the defendants in that case, including E. Howard Hunt. The significance of these xerox copies of photographs to the then-unknown alleged break-in of Dr. Fielding's office was, of course, not then realized, since I had no knowledge whatsoever of the Department of Justice file in the Pentagon Papers case until that matter was transferred to the Criminal Division as a result of the abolition of the Internal Security Division March 26, 1973 and the significance did not thereafter become apparent until a check was made of the CIA material in the Criminal Division on or about May 3, 1973, in connection with the case of United States v. Anthony Joseph Russo, Jr., et al. as a result of the Government disclosure of the memorandum of April 16, 1973, to me.

  
 HENRY E. PETERSEN  
 Assistant Attorney General  
 Criminal Division

Affiant



SUBSCRIBED AND SWORN to before

me this 9<sup>th</sup> day of May, 1973

Jacqueline L. Mercer

A Notary Public in and for the City of Washington, D. C.

My Commission expires: My Commission Expires December 14, 1977

## EXHIBIT No. 94

## FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

August 3, 1971

BY LIAISON

Honorable Egil Krogh, Jr.  
Deputy Assistant to the President  
for Domestic Affairs  
The White House  
Washington, D. C.

Dear Mr. Krogh:

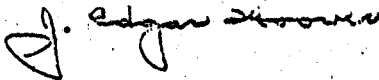
By letter dated July 29, 1971, the President advised me that he had directed that you examine in depth the circumstances of the many recent disclosures of Top Secret and other sensitive material to the public. He asked that I forward to you all information acquired to date, including individual reports of interviews, with respect to 17 persons who were named in an attachment to his letter. One of these was Daniel Ellsberg, principal suspect in the disclosure of the "McNamara Study" to various newspapers. He asked that a comprehensive background paper on Ellsberg be sent to you.

Enclosed are 17 memoranda containing the information mentioned by the President. We have interviewed five of the individuals involved in connection with our investigation in the Ellsberg case. We also endeavored to interview a sixth one, Mr. Charles M. Cooke, but he declined to submit to interview by the FBI without the specific clearance of Deputy Attorney General Richard G. Kleindienst.

If you concur, we will proceed with interviews of all of the remaining individuals except Daniel Ellsberg.

By separate communication, I am furnishing a copy of each of the enclosures to the Attorney General. Upon removal of the classified enclosures, this transmittal letter may be declassified.

Sincerely yours,



Enclosures - 17

SECRET

